
FALSE CRIMINAL ALLEGATIONS IN INDIA: BALANCING VICTIM PROTECTION AND SAFEGUARDS AGAINST MISUSE

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ABSTRACT

The effectiveness of any system of criminal justice rests on the capacity of such a system to not only protect the vulnerability but also keep the innocent insulated from the might of the state. In India, the purpose of the legislation that is intended to protect the powerless through Section 498A¹ of the *Indian Penal Code*² (now Section 85/86³ of the *Bharatiya Nyaya Sanhita*)⁴, *POCSO Act*, 2012⁵, and the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act*⁶, 1989 is to address past injustices and offer a remedy to those who have been oppressed. However, a new and disturbing trend is that of the abuse of these laws for other purposes.

The objective of this paper is to highlight that the *conventional interpretation of a miscarriage of justice* needs to be expanded beyond the concept of a wrongful conviction to include the highly damaging process of a wrongful prosecution. As the very process of law enforcement itself turns into a form of punishment by way of ignominy of an arrest followed by prolonged detention, the constitutional right to dignity and liberty becomes an empty guarantee. Through an integration of the important judicial precedents beginning with *Rudal Sah* till date, through the BNSS scheme, the objective of this study is to chart a course towards an equilibrium. The basic premise of this study is that a "Right to a Fair Trial" cannot stand alone without a "Right against Malicious Prosecution".⁷

¹ Deepta Sethi & Sanjaya Choudhury, *Dowry Harassment and Section 498A IPC: Balancing Protection and Misuse*, 5 Int'l J. Advanced Res. Sci. Comm. Tech. 214, 214 (2025).

² Indian Penal Code, 1860, § 498-A

³ *Sushil Kumar Sharma v. Union of India*, (2005) 6 S.C.C. 281.

⁴ *Bharatiya Nyaya Sanhita*, 2023, §§ 85–86 (India)

⁵ Protection of Children from Sexual Offences Act, 2012, Act No. 32 of 2012, (India)

⁶ The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, No. 33 of 1989, § 3, INDIA CODE (1989)

⁷ Sheokand Legal, *What to Do If You're Named in a False Criminal Complaint in India*, (2024).

1. INTRODUCTION

THE STRATEGIC IMPORTANCE OF THE INVESTIGATIVE THRESHOLD

The First Information Report (FIR) acts as a starting point for setting off the entire criminal justice machinery in India. Reliability of the FIR forms the foundation of all efforts to arrive at the truth. In a system of "cognizable and non-bailable" offenses, an FIR alone may initiate a chain of processes of arrest, humiliation, and ostracization that once set into motion cannot be reversed easily. The importance of FIR from the strategic viewpoint is that FIR can be used not only as a "shield" but as a "sword" as well. For a society, the main problem would be that of determining the threshold at which investigation for prosecution of an offense begins to infringe upon an individual's right against harassment.

HISTORICAL AND LEGISLATIVE CONTEXT: FROM IPC TO BNS

With regard to the development of criminal jurisprudence in India, one can say that there has been an important change toward protecting special interest groups. With the inclusion of Section 498A in the *Indian Penal Code* in 1983⁸, the problem of the "rampant issue of dowry abuse and domestic cruelty" received a proper response. Later, in 1989, the SC/ST Act came into effect, which gave a "special law" to an "oppressed minority within society," who did not enjoy civil rights for years.

However, the shift from the colonial IPC and CrPC to the Bharatiya Nyaya Sanhita (BNS)⁹ and Bharatiya Nagarik Suraksha Sanhita (BNSS)¹⁰ in 2023 marks a concerted effort towards modernizing the laws, but one that is mindful of the problems that come along with extensive prosecutorial powers. The BNSS has introduced certain procedural measures like the requirement of a "Preliminary Inquiry," aimed at reducing the "automatic arrest" mentality that characterized the previous years.

THE STATEMENT OF PROBLEM: PROCEDURAL VULNERABILITY

There is a basic conflict between the requirement of "special laws," which enables the victim to report the crime, and the procedure of the accusation against the suspect. In most cases, the "cognizable" aspect of the crime permits the police to make an arrest without prior investigation, a practice which has been misused by police in the past. The problem here is that

⁸ Indian Penal Code § 498A (1860) (India).

⁹ *The Bharatiya Nyaya Sanhita*, 2023, No. 45, Acts of Parliament, 2023 (India).

¹⁰ *The Bharatiya Nagarik Suraksha Sanhita*, 2023, No. 46, Acts of Parliament, 2023 (India).

although such laws are important for protecting the true victims, "their mere potential for being abused casts out a shadow of doubt over all legitimate complaints." When the state fails to differentiate between the "acquittal of a victim because of lack of evidence" and "deliberate malicious filing of complaint," it gives the impression of aiding real criminals in destroying the life of innocents.

RESEARCH OBJECTIVES AND QUESTIONS

This paper seeks to address the following objectives:

1. To identify the socio-legal causes behind the rising phenomenon of false criminal allegations in India.
2. To evaluate the adequacy of current judicial remedies, specifically the "Public Law Remedy," in compensating for the wrongfully accused.
3. To analyze the procedural shifts in the BNSS and their potential to deter malicious prosecution.
4. To propose a legislative framework for a *Wrongful Conviction (Compensation and Rehabilitation) Act*.

SCOPE AND METHODOLOGY

This analysis is confined to the legal context of India, which includes the BNS, BNSS, and the Bharatiya Sakshya Adhiniyam (BSA)¹¹. There are comparative allusions made to the UK's *Criminal Justice Act* 1988 and US compensation laws at the state level. The method employed in this analysis is an interpretive and analytical approach, involving both qualitative and quantitative research methods, where qualitative analysis involves case laws including decisions made by the Supreme Court, and the quantitative analysis involves Faridabad rape case study and NCRB data.

2. CONCEPT OF FALSE CRIMINAL ALLEGATIONS

THE SOCIAL AND LEGAL IMPACT OF THE "ACCUSED" LABEL

Today, being labeled as an accused person in the criminal case acts as "*social and legal death*."

¹¹ *The Bharatiya Sakshya Adhiniyam, 2023*, No. 47, Acts of Parliament, 2023 (India).

Being the label of the accused person especially when the crime involves sexual assault or atrocities against any caste leads to instantaneous and permanent damage to the reputation. As a society, it becomes the responsibility to realize that the “ignominy” that comes with the act of putting someone in jail before even taking the first witness into consideration is a punishment itself.

T TYPOLOGY OF FALSE ALLEGATIONS:

- **False Matrimonial Disputes and the "Omnibus" Trap**

The abuse of Section 498A (now Section 85/86 BNS) is often accompanied by what has been referred to by the courts as "vague and omnibus charges." In the case of *Preeti Gupta v. State of Jharkhand*¹², it has been seen that there is an inclination towards naming the relatives of the accused, namely the aunts, uncles, and cousins who live in other cities.

In addition, the application of Section 406 IPC (Criminal Breach of Trust) as part of BNS, has routinely resorted to ensure the recovery of *stridhan*. The complainant would claim that she has not been allowed the return of her ornaments and other belongings, which constitutes the "necessary circumstances" for the police to arrest the entire family in order to "recover the property." The linking of Section 406 with 498A has been an obvious case of *suppressio veri, suggestio falsi*.

- **False SC/ST Complaints: The Intent to Humiliate**

The SC/ST Act is at times used as a “tactical lever” in cases of property disputes and civil disputes. This is evident from the observation by the Supreme Court of India in the case of *Hitesh Verma v. State of Uttarakhand*¹³ where it is noted that there can be an offense under Section 3(1)(r) when the act of insult and intimidation arises from the caste-based identity of the victim. It was stated that “property dispute between a vulnerable section of the society and a person of upper caste will not disclose any offense under the Act unless the allegations are on account of the victim being a Scheduled Caste.”

¹² *Preeti Gupta v. State of Jharkhand*, (2010) 7 S.C.C. 667.

¹³ *Hitesh Verma v. State of Uttarakhand*, (2020) 10 S.C.C. 710 (Nov. 5, 2020)

- **False POCSO Cases: Adolescent Romance**

Age of consent has been made mandatory (18 years), which has resulted in criminalization of consensual sexual activities among teenagers¹⁴. The draft bill included an exception to criminalization for the age group of 16+. However, the POCSO act has taken away this provision from it. As pointed out by Madras High Court in *Sabari @ Sabarinathan v. Inspector of Police*¹⁵, many POCSO cases deal with teenagers between 16 and 18 who indulge in consensual sex on account of their mutual innocence and biological urges¹⁶.

- **False Rape Allegations: The Faridabad Study vs. National Mean**

The empirical data collected in District Faridabad gives a completely different picture than the national one. In this study, whereas 16% of the rape cases were "cancelled," only **6.9% were declared "deliberately false."**¹⁷ This becomes important when it is considered that the **11.3% national average rate**¹⁸ of rape cases resulting in a Final Report (Non-Chargeable) is based on the NCRB 2012 data. It becomes apparent that while there is an overreporting of the 6.9% "deliberately false" cases, there is also a 9.1% difference¹⁹ in terms of the number of rape cases where the complainant withdrew her complaint because of social pressure or familial "honor."

- **The "So What?" Layer: Acquittal vs. Malicious Intent**

Society needs to focus on the difference between an "acquittal," which means failure of proof, and a "maliciously false accusation." The NCRB data, through its inability to categorize maliciously false accusations separately, provides the "narrative of support" to offenders. On the other hand, the absence of a legal difference between the two terms makes sure that someone who is maliciously accused will get the same "Not Guilty" verdict as the one who was fortunate enough to benefit from the benefit of doubt.

¹⁴ Oishika Banerji, *Navigating Adolescent Romance vis-à-vis POCSO Act*, Manupatra Academy (2025).

¹⁵ *Sabari @ Sabarinathan v. Inspector of Police*, 2019 SCC OnLine Mad 3302.

¹⁶ *Id.*

¹⁷ Hanif Qureshi & Jee Yearn Kim, *The Truth Behind False Rape Cases*, 18 Psychol. Behav. Sci. Int'l J. 001, 003 (2021).

¹⁸ *Id.* at 004.

¹⁹ *Id.* at 003.

3. CONSTITUTIONAL PERSPECTIVE

THE CONSTITUTION AS THE ULTIMATE SHIELD

The Indian Constitution provides the highest safeguard against harassment in law from either the state or individuals. The Indian Constitution is home to the principle of "Presumption of Innocence," which, according to the Supreme Court, is not only a principle of evidence but also a "*human right*."

ARTICLES 14 AND 21: DIGNITY AND THE PRESUMPTION OF INNOCENCE

False complaints violate Article 21 of the Constitution²⁰, which provides the "Right to Life" as well as, by judicial interpretation, the "*Right to Dignity*." In cases where an innocent person suffers "intense humiliation" and "mental torture" due to false implicativeness, as in the case of the ISRO scientist Nambi Narayanan, there is a clear violation of the constitutional duty of the state. The guarantee of "*Equal Protection of the Law*" provided in Article 14²¹ means that laws designed to protect people cannot become tools of persecution.

THE EVOLUTION OF THE "PUBLIC LAW REMEDY"

The absence of any statutory scheme has led to the creation of the "Public Law Remedy" by Indian courts. This unique judicial innovation enables the constitutional courts to provide monetary compensation for the violation of the fundamental rights of individuals by the state of organs.²²

- **Rudal Sah v. State of Bihar (1983):** For the very first time, the Supreme Court compensated for money (Rs. 30,000) to an individual who was illegally detained for 14 years after being acquitted. According to the Chief Justice of India, Mr. Chandrachud, "*the right to compensation is some palliative for the unlawful acts of instrumentalities of the State.*"²³
- **Evolution (1983–2025):** However, from "Rudal Sah," the development extended to include custodial death and eventually malice prosecution. Yet, it is still "discretionary,

²⁰ INDIA CONST. art. 21

²¹ INDIA CONST. art. 14.

²² Bhawana Pegu, *Judicial Remedies and Constitutional Safeguards For Victims Of Wrongful Conviction In India: An Analysis*, Indian J. L. Legal Res. (2025).

²³ *Rudal Sah v. State of Bihar*, (1983) 4 S.C.C. 141.

inconsistent and inaccessible," to an ordinary person, as the petition needs to be in the form of a writ petition to either the High Court or the Supreme Court.

THE "SO WHAT" LAYER: FAIR TRIAL AND ARBITRARY ARREST

The Right to "Fair Trial" should include protection from "Arbitrary Arrest." The "common attitude of the State Police to arrest anyone" without any confirmation "as has been criticized by the Supreme Court in Nambi Narayan's²⁴ case" is a constitutional emergency. The fair trial is not just the result but also the whole process. When the process starts with "an unwanted arrest" due to a malafide FIR, then the trial becomes unfair.

4. JUDICIAL APPROACH

THE JUDICIARY AS GATEKEEPER OF LIBERTY

The role of the Judiciary is that of the last "gatekeeper" to stop the perversion of the machinery of justice for a wrong purpose. It is now well accepted by courts that the police may be employed as a "tool for harassment" in civil/marital disputes.

LANDMARK JUDGEMENTS ANALYSIS:

- **Arnesh Kumar v. State of Bihar (2014):** In order to stop the practice of "automatic arrests" in cases involving Section 498A of IPC, the Court gave very clear directions. Arrest could not be made in any case that carried imprisonment for less than seven years. The police would have to give reasons for arresting an individual, and such reasons would have to be carefully considered by the Magistrate before granting custody.²⁵
- **Preeti Gupta v. State of Jharkhand (2010):** "The Court was alert to the 'implication of distant relatives' and observed that 'the complaint was filed with a view to harass... and gain leverage.'" The *ratio decidendi* of the case highlighted the need to quash the FIR where vague allegations without any mention of role were involved.²⁶
- **Sushil Kumar Sharma v. Union of India (2005):** The "*Legal Terrorism*" was defined by the Court as the abuse of the provisions of Section 498A. The most important part

²⁴ S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804

²⁵ *Arnesh Kumar v. State of Bihar*, (2014) 8 S.C.C. 273.

²⁶ *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667.

of the verdict of the Court, however, was the fact that it stated that the presence of the "potential abuse" of a good law cannot be a reason for its nullification.²⁷

- **Rajesh Sharma v. State of U.P. (2017) and Social Action Forum (2018):** In the case of *Rajesh Sharma*²⁸, an effort was made to restrict abuse by introducing "Family Welfare Committees" that would take up complaints. But later, in the case of *Social Action Forum for Manav Adhikar*²⁹, a bench of three judges changed this approach by arguing that family welfare committees did not have any legal standing within the existing criminal framework.

THE "SO WHAT" LAYER: IMPACT ON BNSS

This combined effect of all these decisions helped formulate the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023³⁰. The provision in Section 173(3) of the BNSS³¹ requires a "Preliminary Inquiry" for offences which can attract imprisonment of 3 to 7 years. This Preliminary Inquiry should be conducted within 14 days so that it may ascertain whether a *prima facie* case exists. This structural protection is the legislative outcome of the ten-year-old struggle of the judiciary against whimsical and malignant FIRs.

5. CASE STUDIES

THE NAMBI NARAYAN CASE: A STRUGGLE FOR HONOR

The most appropriate illustration of "the atypical attitude of the State Police" comes from the case of ISRO scientist Nambi Narayanan. Framed for espionage in 1994, after 20 years of fighting to restore his honor, Narayanan was awarded Rs. 50 lakhs in compensation by the Supreme Court. The Court pointed out that he had been subjected to "immense humiliation" and "mental cruelty." Significantly, it formed a panel to investigate the "police men who had framed the scientist," stressing that restoration of honor is what "law aims at," while compensation "is a palliative measure."³²

²⁷ Sushil Kumar Sharma v. Union of India, (2005) 6 SCC 281 (India).

²⁸ *Rajesh Sharma v. State of U.P.*, (2017) 8 SCC 41.

²⁹ *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 S.C.C. 443.

³⁰ *The Bharatiya Nagarik Suraksha Sanhita*, 2023, No. 46, Acts of Parliament, 2023 (India).

³¹ *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 173(3).

³² *S. Nambi Narayanan v. Siby Mathews*, (2018) 10 S.C.C. 804.

THE FARIDABAD RAPE CASE STUDY³³: EMPIRICAL REALITY

The Faridabad study reveals a nuanced reality:

- The actual rate of falsification is 6.9% against 16% reported by the media.
- The reason for this gap is that the police categorize the "withdrawn cases" (9.1%) under the same heading as the "false cases."
- Such "overidentification" makes a mockery of the real victim's case. In my opinion, this information calls for a different way of collecting data by NCRB. We need to differentiate between "Malicious Fabrication" and "Lack of Evidence/Withdrawal."

HITESH VERMA: PROPERTY DISPUTES AND THE SC/ST ACT

In the case of *Hitesh Verma* (supra), a controversy over the ownership of land was transformed into one involving atrocity under the criminal law. According to the Court, the resort to Section 3(1)(r)³⁴ was an attempt at making use of a "procedural lever" on the part of the complainant. This case is a cautionary tale, for the provision of the SC/ST Act about intention to humiliate should not be overruled.

ADOLESCENT POCSO: RAMANCING THE LAW

In the case of *Sunil Mahadev Patil vs. State of Maharashtra*³⁵, the court dismissed criminal charges where "the prosecutrix and the accused had left their families to marry each other and were leading happy lives." There is an increasing trend among the courts in recognizing adolescent relationships as a "natural or biological phenomenon" rather than something that is unnatural or alien. In the *Shambu Thilak*³⁶ case, the court further reiterated the same point that "consensual romance of young adults *should not be criminalized*."

6. COMPARATIVE STUDY

Statutory Frameworks for Wrongful Conviction

India remains an outlier among democratic nations by lacking a statutory framework for

³³ Savita Bhardwaj, *The Truth Behind False Rape Cases*, 5 Psychol. & Behav. Sci. Int'l J. 1 (2021).

³⁴ The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, § 3(1)(r), No. 33, Acts of Parliament, 1989 (India).

³⁵ *Sunil Mahadev Patil v. State of Maharashtra*, 2015 SCC OnLine Bom 5214.

³⁶ *Shambu Thilak v. State of Kerala*, Crl.M.C. No. 3810 of 2016, slip op. (Ker. H.C. Jan. 6, 2017).

compensation.

- **United Kingdom:** *Criminal Justice Act* of 1988 in the UK allows the codification of the right to damages for miscarriage of justice. Compensation for redress of wrong is no longer a question of judicial discretion but rather a statutory right.
- **USA:** There have been numerous cases where DNA evidence has been used to exonerate people in the U.S. There have been over thirty states that have passed compensation laws which require not only compensation of monetary loss but also "rehabilitative measures" like psychological therapy and job training.
- **Australia:** In Australia, the courts follow the "proximate and efficient cause" rule in determining whether there has been malicious prosecution or not. It is the burden of the plaintiff in malicious prosecution cases to prove that the defendant was "actively instrumental" in causing the process of law to be set into motion without having any reasonable cause to do so.³⁷

THE “SO WHAT” LAYER: PUBLIC LAW REMEDY vs. STATUTORY ACT

The “Public Law Remedy” is a “singular Indian invention,” which is inherently “inconsistent and discretionary.” The Judiciary needs to push for a *Wrongful Conviction (Compensation and Rehabilitation) Act*. Compensation for an offense against the liberties of the people by the state should not rest on the “luck of being before the right bench when a writ petition is heard.”

7. CHALLENGES

TRIAL BY MEDIA AND CAREER DESTRUCTION

In an era of digital proliferation, “Presumption of Innocence” has given way to “Trial by Media.” It is the 63.14% rise in cybercrime registrations (according to data from BOOM/NCRB)³⁸ that brings to light the rapidity of damage to reputation. For the person being charged, it is a long-drawn struggle of “content take-down,” whereas the defamatory FIR keeps getting indexed in search engines indefinitely.

³⁷ *O. Ramadoss v. R. Sanhasi Chettiar*, (1957) 1 M.L.J. 79.

³⁸ Ritika Jain, *NCRB Data On Cyber Crimes Dated, Not Indicative Of True Picture: Experts*, BOOM (Oct. 6, 2025).

SYSTEMIC DEFECIENCIES: THE “OVERWHELMED” POLICE

With regard to the FIR conversion ratio of 2.43% of complaints of cybercrime³⁹ (referenced by *Muktesh Chander*⁴⁰), the implication is that the system is "overwhelmed." In situations where the police are dealing with a "quantum of cases," there will either be non-registration of real cases or registration of fake cases without investigations being conducted "to meet targets."

MENTAL HEALTH AND THE “PROCESS AS PUNISHMENT”

Career destruction and "psychological abuse" through trial may result in psychological trauma that is irreversible. "Myths and misconceptions" are common among investigating officials, who are often biased towards both victims and the accused in a case. In such an atmosphere, the "right to a fair trial" becomes a distant dream.

8. SUGGESTIONS AND REFORMS

STRICTER PENALTIES UNDER BNS

Bharatiya Nyaya Sanhita (BNS)⁴¹ should stringently impose punishment on people making false charges "with intent to injure" (in the spirit of old IPC Section 211⁴²). The extent of punishment should be consistent with the gravity of the alleged crime.

BNSS PROCEDURAL COMPLIANCE

- **Mandatory Preliminary Investigation:** The two-week period in BNSS is to be properly audited by Magistrates in order to filter out any civil cases (marital/property).
- **Preservation of Digital Evidence:** Under the Indian Evidence Act⁴³ (BSA)⁴⁴, the preservation of metadata and digital notifications should be employed in order to avoid the 'back-dating' of FIRs.

³⁹ *Id.*

⁴⁰ Muktesh Chander, *A Case for National Cyber Security Strategy*, 66 Indian Police J. 122, 124 (2019).

⁴¹ *The Bharatiya Nyaya Sanhita, 2023*, No. 45, Acts of Parliament, 2023 (India).

⁴² Indian Penal Code, § 211 (1860).

⁴³ Indian Evidence Act, 1872.

⁴⁴ *The Bharatiya Sakshya Adhiniyam, 2023*, No. 47, Acts of Parliament, 2023 (India).

STATUTORY COMPENSATION ACT

I strongly support the need to implement forthwith the *Wrongful Conviction (Compensation and Rehabilitation) Act*⁴⁵ which should:

- Provide definitions of "Wrongful Prosecution" and "Wrongful Conviction".
- Set up monetary compensation standards.
- Include rehabilitation and record clearance.

POLICE TRAINING AND MYTH DEBUNKING

These myths should be debunked in training programs. The investigators need to be educated on the difference between a "withdrawn complaint" caused by social pressure and a "fabricated complaint" arising from ill motives.

10. CONCLUSION

"The ultimate aim of the criminal justice system should be to make sure that the law remains a protector of the meek and is not used as an instrument of oppression." Legislation such as POCSO, SC/ST, and BNS Section 85⁴⁶ (previously 498A) is essential for the safeguarding of people who have been unable to find a voice till date. But their survival depends entirely on their resistance to misuse.

It would only help improve the legal framework by making it resistant to abuse, rather than weakening the protection afforded to the genuinely aggrieved parties. The integrity of the process is compromised only because of the taint of abuse. Only then can there be justice if the guilt goes behind bars, and the innocents remain untouched by any process of law. What India should be working towards is the establishment of an equitable justice system, where "Liberty and Dignity" guaranteed by our Constitution ceases to be a mere luxury for the privileged few.

⁴⁵ Law Commission of India, *Report No. 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (2018).

⁴⁶ Section 85 of the Bharatiya Nyaya Sanhita, 2023.