A REVIEW OF MISUSE OF THE OFFENCE OF CRUELTY UNDER THE INDIAN CRIMINAL JUSTICE SYSTEM AND CORRECTIVE MEASURES

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ABSTRACT

This paper studies Section 498A of the Indian Penal Code, which was implemented in 1983 to safeguard married women from mistreatment by their spouses or relatives. However, it has been transformed into a tool for females, formerly considered a form of protection. It examines whether there is a need to revise the suggested rule that prohibits the creation of spurious statements, weakening the purpose of the law and the way the accused or their family is subjected to marginalisation. For instance, around 70% of recent trials resulted in acquittal. NCRB illustrates that a considerable number of cases are recorded under this section annually, with a significant rate of acquittals. Therefore, the societal impact of such a discrepancy demands a more equitable strategy to safeguard both binary genders from being exploited.

Keywords: Cruelty; Dowry Demand; Gender Equality; Harassment; Misuse.

Introduction

It was believed that the term "cruel" encompassed either "violent, disobedient, destructive" or "content with causing harm to others; inhuman; hard-hearted; ruthless"[1]. Cruelty, as per Oxford Dictionary, is behaviour that causes physical or mental pain to others and that they suffer deliberately[2]. In the case of **Inder Raj Malik v. Sunita Malik**[3], harassment of a woman to coerce her or her family into meeting an unlawful property or security demand is defined as cruelty. In the case of **Kaliyaperumal v. State of Tamil Nadu**[4], the Court ruled that the term 'cruelty' under this section is not restricted to cruel treatment but also includes mental cruelty. Thereafter, in the case of **Pawan Kumar vs State of Haryana**[5], the Supreme Court observed that cruelty or harassment under Section 498A need not be physical, and even mental torture in a grave case would be enough for conviction. Cruelty can manifest in various ways, including deprivation, wasteful behaviour, excessive demands, extramarital relationships, harassment for dowry, discrimination against newborn girls, false accusations of immorality, and more. In the case of **Shobha Rani v Madhukar Reddi**[6], the Supreme Court held that the notion of physical violence is not always present; rather, it may include such harassment as dowry demand. The women in households are compelled to wed at a young age, deprived of sexual and reproductive rights, subjected to torture, assaulted, sexually assaulted, coerced into getting abortions, bought and sold, trafficked, murdered in the name of honour, labelled as witches, thrown out of their residences, stripped of property rights, discriminated against in terms of nutrition, education, healthcare, and other provisions, and victimised in various other manners. Violence against women within the institution of marriage undermines the perception of the home as a sanctuary, exposing it instead as a site of terror for numerous individuals. According to Section 498A of the Indian Penal Code, 1860 (IPC)[7] and Section 85 of the recently enacted Bharatiya Nyaya Sanhita, 2023 (BNS)[8], anyone who, as the husband or a relative of the husband, involves a woman in cruelty will face up to three years in prison and a fine. This clause can be elaborated as: cruelty is described as (a) any intentional actions that could lead the woman to attempt suicide or to significantly endanger her life, health, or well-

[1] John F. Stinneford, *Is Solitary Confinement a Punishment?*, 115 NW. U. L. REV. 9 (2020).
[2] Oxford Advanced Learner's Dictionary (Oxford Univ. Press, accessed Dec. 26, 2025), https://www.oxfordlearnersdictionaries.com/.
[3] Inder Raj Malik v. Sunita Malik, 1986 CriLJ 1510.
[4] Kaliyaperumal v. State of Tamil Nadu, AIR 2003 SUPREME COURT 3828.
[5] Pawan Kumar v. State of Haryana, AIR 1998 SC 958.
[6] Shobha Rani v Madhukar Reddi, 1988 AIR 121.
[7] Indian Penal Code 1860, s 498A (Ind.).
[8] Bharatiya Nyaya Sanhita 2023, s 85 (Ind.).

being both mentally and physically; or (b) tormenting the woman to pressure her or someone related to her to meet an unjust request for property or valuable security, or because she or someone related to her has not followed through with such a request[9]. When setting up the rules in section 498A, the various types[10]. Both types of cruelty, whether physical or emotional, are deemed as forms of "cruelty" under Section 498A. This Section recognises both physical and mental cruelty without any reference to dowry; judges endeavour to ascertain the underlying causes of such violence. Black's Law Dictionary defines cruelty as the intentional and malicious infliction of suffering on creatures, especially human beings; it is a punishable offence[11]. It is a punishable crime that can be detected and is non-bailable. Importantly, BNS 2023 has recently taken over the IPC, with Section 498A now reflected in Section 85 of the revised legislation. This provision can be implemented in marriages which are legally valid as per Indian law, which makes it binding. Due to its boundedness, despite its intended protective nature, the provision has been subject to considerable misuse, raising significant concerns regarding the potential abuse of this protective measure.

Essential Elements of 498A IPC

2.1 Married Women – For the section 498A to apply, a valid marriage must exist between the woman and the alleged perpetrator or his relatives. **Rupali Devi vs. State of Uttar Pradesh**[12] in the case, it was held that this section is meant to protect a married woman from cruelty by her husband or members of his household. In the case of **Reema Aggarwal vs. Anupam & Ors**[13] The Supreme Court has stated that Section 498A, on the face of it, applies only to a legally wedded wife, but in some cases, if a woman has been misled into the marriage, a suit is filed for the injustice. In the case of **Savitri Pandey vs Ramchandra Pandey**[14]The court said that cruelty appears when the natural link of love and affection between the husband and wife is destroyed or shattered**.** But technically speaking, 498A applies only to the legally married wives. In the significant ruling from February 2023, the Supreme Court set aside the conviction of three persons under 498A, observing that the conviction would not be sustainable as marriage has been found to be null and void.

[9] Indian Penal Code, s. 498A (Ind.).
[10] 2018 SCC OnLine Blog LME 1.
[11] BLACK'S LAW DICTIONARY (rev. 4th ed. 1968).
[12] Rupali Devi v. State of Uttar Pradesh, 2019 INSC 486.
[13] Reema Aggarwal v. Anupam & Ors., 2004 INSC 25.
[14] Savitri Pandey v. Ramchandra Pandey, AIR 2002 SUPREME COURT 591.

2.2 Cruel Treatment – In **Kaliyaperumal And Anr vs State Of Tamil Nadu**[15] The Supreme Court stated that cruelty under Section 498A should be of such a nature that it drives the woman to suicide, or poses a grave danger to her life, limb, or mental/physical health, or the act was done to force her or her family, i.e. Parents and siblings, to fulfil dowry demands. In the case of **Pawan Kumar v. State of Haryana**[16] states that cruelty or harassment under section 498a does not need to be physical; mental torture in a grave case would also be a conviction.

The law explicitly recognises that cruelty can manifest in both physical and mental forms. Physical includes acts of violence that cause bodily harm or pain. Mental cruelty encompasses psychological abuse such as constant harassment, verbal abuse, threats, or humiliation that affects a woman's mental well-being. For instance, the Bombay HC 2024 in the case of **Sandesh Madhukar Salunkhe vs the State of Maharashtra & Anr**[17]., held that commenting that a woman does not know how to cook is not cruelty and would not constitute an offence under 498A of IPC, and it further observed that petty quarrels do not constitute cruelty within the meaning of Section 498A of IPC.

2.3 The husband or his relatives must commit this act against the wife[18] - This essential determines who can commit cruelty other than the husband. Regarding the case of **U. Suvetha v. State**[19], the Supreme Court held that in the case of Section 498A, a person who is not a blood relative, a married relative, or an adopted relative is not punishable. In other words, if the husband has a girlfriend or a live-in partner, such a person cannot be held liable under this section. In **K. Srinivas v. K. Sunita**[20], the Supreme Court also noticed that false charges of infidelity, as well as persistent humiliation, would constitute mental cruelty under Section 498A.

Historical Context

England's belief in male supremacy shaped the common law's view that men should lead the household and have authority over their female counterparts. Until the emergence of liberalism, the belief in male superiority over women went unchallenged during much of Western culture's

[15] Kaliyaperumal And Anr. vs State Of Tamil Nadu, AIR 2003 SUPREME COURT 3828.
[16] Pawan Kumar, AIR 1998 SC 958.
[17] Sandesh Madhukar Salunkhe vs the State of Maharashtra & Anr, CRIMINAL WRIT PETITION NO. 3936 of 2021.
[18] The Indian Penal Code, s.498A (Ind.).
[19] U. Suvetha vs State, 2009 7 SCR 902.
[20] K. Srinivas v. K. Sunita, AIRONLINE 2014 SC 147.

evolution. Christianity is where the oldest support for patriarchal views, which recognised men's dominance over women differently, can be found in the Old Testament. Church leaders preferred men to have parental authority over families because it reflected Christianity's hierarchical and supportive structure[21]. Incidents of men's severe violence were seen as abnormalities, as if the perpetrators were crazy instead of simply immoral wife beaters[22]. Many local societies in ancient England and Europe addressed men's violence before judicial institutions recognised the need to regulate wife-beating. English towns used derogatory ceremonies known as "badger's bands" or "rough music" to both annoy and caution overly aggressive husbands, with participants coming together to smash items such as pots, pans, kettles, and horns. A similar tradition called charivari emerged in France and Italy to serve as a societal punishment for men who mistreat their wives[23]. Furthermore, there was a discussion in England and across Europe, particularly in the seventeenth century, regarding how plays, pamphlets, and songs mocked murderers and abusive husbands[24]. In line with English common law, a married couple was seen as one entity, meaning a wedded woman could not speak out against her husband's mistreatment as he represented her[25]. In the case of **Bradley v. Wife**[26] in 1663, the court granted the husband the legal authority to discipline his wife, as he had the legal permission to do so[27]. Consequently, a husband is given legal authority and dominance over his wife. He can also apply force to keep her within his responsibilities and hit her, if it is not excessive or deadly[28]. The first amendment to address and reduce male aggression in the household was introduced with the passage of the English law for the improved protection of women and children from violent anger in 1853[29]. To reduce the high levels of domestic violence towards women, Colonel Egerton Leigh made a strong argument in 1874 in the House of Commons for tougher penalties against men who abuse their wives. To sum up, Leigh was deceived, and his changes did not work, but most of the staff and judges in the lower courts that dealt with most cases had the same concerns about the rules not protecting wives from

[21] Deborah Gewertz, *Male Control, Female Resistance: Patriarchy, Religion, and Intimate Partner Violence*, 13 J. RELIGION & ABUSE 115 (2011).
[22] Colin G. James, *A History of Cruelty in Australian Divorce* (2006), https://doi.org/10.2139/ssrn.2548315.
[23] Russell P. Dobash & R. Emerson Dobash, *Community Response to Violence Against Wives: Charivari, Abstract Justice and Patriarchy*, 28 SOC. PROBS. 563 (1981).
[24] Frances E. Dolan, *DANGEROUS FAMILIARS* (Cornell Univ. Press 1994).
[25] Reva B. Siegel,*"The Rule of Love": Wife Beating as Prerogative and Privacy*, 105 YALE L.J. 2117 (1996).
[26] *Bardley v. Wife* 1 Miss., (1 Walker) 156, 158 (1824).
[27] ARTHUR RACKHAM CLEVELAND, *WOMAN UNDER THE ENGLISH LAW: FROM THE LANDING OF THE SAXONS TO THE PRESENT TIME* (1896).
[28] MONTAGUE LUSH, *LUSH ON THE LAW OF HUSBAND AND WIFE* (1933).
[29] The Criminal Procedure Act 1853 (UK).

abusive husbands[30]. A survey of judges and sheriffs carried out by the Home Office in 1875 found that the majority believed the laws were ineffective in protecting women. Several judges believed that corporal punishment was sometimes necessary for a man to uphold control in his home, as they considered gender equality to be a new idea. Lawyers found it difficult to determine when a man's treatment of his wife crossed the line from proper to cruel. Despite ongoing debates on women's rights and equality, the political changes failed to truly challenge male supremacy within the household. Ultimately, the traditional family structure led by men was secure as the basic societal building block in England around 1900. Despite facing discrimination and shame, divorced women and single mothers encountered financial and employment challenges. However, new regulations enabled women to separate or end their marriages in cases of severe male violence. In the past, there were frequent cases of cruelty, including women being stripped and humiliated, especially those from lower castes. Despite this, there was a lack of research on women or marital cruelty, so little information is available before the British era. The protest by women of the 1970s and 1980s not only condemned violence against women in the home but also highlighted ways in which the state neglected and showed indifference towards cruelty. In 1983, Section 498A became well-known due to the increasing deaths of young women in "accidental kitchen fires" believed to be caused by dowry harassment. The next stage of the Indian women's movement started in 1977 following the conclusion of the Emergency. They exclusively talked about the mistreatment husbands inflicted on their wives. Before 1983, no specific laws were in place to address domestic violence.

Burden of Proof

The provision of Burden of Proof is defined under Section 101 of the Indian Evidence Act (IEA) 1872[31] as also under Section 104 of Bharatiya Sakshya Adhiniyam (BSA), 2023[32]: Whoever desires any court to give judgment as to any legal right or liability dependent upon the existence of facts which he asserts, must prove that those facts exist. Burden of proof is also referred to as a person who, when committed to proving the existence of any fact, then the burden lies on that person. It has two propositions in this section: one, saying that the time of the court should not be wasted in idle controversies, or a party should not be dragged without

[30] John D. Bessler, *Lost and Found: The Forgotten Origins of the "Cruel and Unusual Punishments" Prohibition* (2025), https://doi.org/10.2139/ssrn.5135407.
[31] The Indian Evidence Act 1872, s. 101 (Ind.).
[32] The Bharatiya Sakshya Adhiniyam 2023, s. 104 (Ind.).

a factual basis. As per the second, the person who will have to prove the existence of facts has the burden of proof. It is used both in terms of civil and criminal cases because in a criminal case, the prosecution wants to punish a defendant by proving that he committed the crime, and in civil cases, a person who wants to own the land proves the facts of his claim. At this stage, civil law expands the extent of internal strife to include additional domestic relationships; the criminal legislation from 1983 is much narrower, defining cruelty specifically within the confines of marriage. Evidence, as per Black's Law Dictionary, refers to the proof or probative matter presented in a trial by parties or through eyewitnesses, records, documents, tangible objects, etc., to convince the jury or court to support their stance[33]. In the case of **Rajaram vs State of M.P.**[34], the Supreme Court set aside the conviction under Section 498A due to insufficient evidence. Specific allegations and evidence, along with a lessening of the loophole of cruelty under this section, were stressed by the court. According to the **Yashodeep Bisanrao Vadode vs State of Maharashtra case**[35], if insufficient concrete evidence is produced against the accused in the case of 498A, the court acquits the accused under section 498A. Consequently, the court indicated that mere allegations without any specific material would not support a conviction. Shakespeare described a female character as "Frailty thy name is woman" in one of his plays[36], as mentioned in the case of **K. Prema S. Rao and Anr. Vs. Yadla Srinivasa Rao and Ors**[37], The finding was that evidence points to only a violation of Section 498A of the IPC, which is becoming more apparent in rural India, where married women often lack the courage to confront the mistreatment and harassment they suffer from their husbands and relatives. For the Proof of cruelty, it is necessary to show a nexus between cruelty and suicide.

Defining the term "Relatives of Husband".

This term refers to the person who can be blamed for such acts of cruelty against a married woman, other than the husband. As the Supreme Court has noted, the term 'relative' has not been defined in the statute, so this legislative gap exists. The Delhi High Court has also interpreted the term "relatives of husband" according to Section 498A. In a judgment, the court has held that by the words 'relatives of husband', under Section 498A of IPC, it has been meant

[33] BLACK'S LAW DICTIONARY (rev. 4th ed. 1968).
[34] Rajaram vs State of M.P.1994 SCC (2) 568.
[35] Yashodeep Bisanrao Vadode vs State of Maharashtra, 2024 INSC 798.
[36] 2024 SCC OnLine SC 1244.
[37] K. Prema S. Rao and Anr. Vs. Yadla Srinivasa Rao and Ors, AIR 2003 SUPREME COURT 11.

as related to the husband by blood, marriage, or adoption. These provisions, this interpretation says, create three straight categories of relations that are "a relative of husband" under these provisions. By blood (consanguinity), they may be persons related to the husband. Persons who are of consanguinity connected with the husband (relationship by blood), and Persons connected with the husband by marriage (affinity), or Persons connected with the husband by adoption (legal fiction). It means that persons who are not included in the threshold categories of relationships with the husband cannot be involved under these provisions, the social or familial relations with the husband's family[38]. Though mere inclusion of names without substantiating allegations is insufficient to proceed against relatives, their testimonies have been used to pressure and extort those families into admitting to the parents' guilt. As per the case of **Vijeta Gajra v. State (NCT of Delhi)**[39]A person can only be covered by Section 498A of the IPC if they are a "relative" through blood relations, marriage, or adoption. In **U. Suvetha v. State**[40] Under Section 498A, a girlfriend or extramarital partner is not considered a "relative" unless they are connected to the husband through marriage or blood. Under Section 498A of the IPC, a husband's recognition of his second wife as a spouse to his friends, family, or society makes her equivalent to "the husband's relative". In the case of **Akhtar Malik & Anr. Vs. The State (NCT Delhi)**[41] The Court clarified that, as per Section 498A, IPC, a "relative" does not encompass a lover or mistress, as per the explanation given. In the instance of **Krishan Lal and Ors. Vs. Union of India (UOI) and Ors.**[42] The husband of a married woman and her relatives form a distinct group.

Compoundability of Cruelty

In Indian criminal law, the offence is settled by mutual agreement between the parties, and such an offence is referred to as compoundable. The definition in this case implies that the party who suffered wrong might agree to some sort of payment or satisfaction in exchange for dismissal of charges against the accused. This section is not a compoundable offence as of now. The primary reason is that it pertains to a grave matrimonial cruelty, which is serious enough to be a crime against women, and making it compoundable would weaken the protection it gives to victims by giving leeway to the perpetrators to settle the case without any legal

[38] Reva B. Siegel, *supra* note 25.
[39] Vijeta Gajra v. State (NCT of Delhi), (2010) 11 SCC 618.
[40] U. Suvetha v. State, (2009) 6 SCC 757.
[41] Akhtar Malik & Anr. Vs. The State (NCT Delhi), AIR Online 2019 DL815.
[42] Krishan Lal and Ors. Vs. Union of India (UOI) and Ors, 1994CRILJ3472.

consequences, pressuring victims to settle the case. In technical terms, Section 498A is a criminal offence that is both cognisable and non-compoundable. Some women's groups see section 498A not just to punish perpetrators, but also as a tool for coming to agreements with the accused. Based on the suggestions of the Malimath Committee, the government is currently in the process of making Section 498A compoundable, enabling couples to engage in discussions and reconcile with each other. The Ministry of Home Affairs has presented a blueprint to the Union Cabinet to alter Section 498A of the IPC. If a case is adjudged to be vexatious, the new legislation would penalise the person with a fine of fifteen thousand rupees in place of one thousand rupees.

Legitimacy of 498A

Provision 498A of IPC is the only one through which a woman can get into safe custody after facing cruelty from the offenders. But, both Section 498A and the Protection of Women from Domestic Violence Act 2005[43], have comparable criteria for convincing the authorities that the victim has suffered injury or harassment. Moreover, the judiciary system has interpreted that the act of abusing a woman's emotional well-being is also covered under the offence of cruelty. In innumerable case hearings, the provision is a matter of contention for misuse and compliance with constitutional principles. In **Inder Raj v. Sunita**[44], the High Court of Delhi analysed the constitutionality of Section 498A and expressed concerns about its Foreseeable breach of the right to equality under Article 14 of the Indian Constitution. The petitioner contended/pleaded that the word "cruelty" is inconsistent with the Constitution and uncertain, and that Section 498A grants discretionary authority to the police. The Court upheld the clause, stating that its application would not be arbitrary due to the clear definition of "cruelty" in the statute. However, it was determined that Article 14 of the Constitution is not breached, as Indian law clearly shows that the decision is not random. The Punjab and Haryana High Court stated in the case of **Krishan Lal v. Union of India**[45], that Article 14 of the Constitution requires equal treatment for all individuals in similar situations. The conclusion was reached that Section 498A did not contravene Article 14 of the Indian Constitution. In the case of **Sushil Kumar Sharma v. UOI**[46], the Supreme Court was requested to declare 498A as unconstitutional under Article 32 of the Constitution or, in the alternative, to set guidelines to curb its misuse.

[43] The Protection of Women from Domestic Violence Act, No. 43 of 2005 (Ind.).
[44] *Inder Raj v. Sunita,* (1986) Crim.L.J. 1510 Delhi H.C.
[45] *Krishan Lal v. Union of India,* (1994) Crim.L.J. 3472 (Punjab & Haryana H.C.)
[46] Sushil Kumar Sharma v. UOI, AIR 2005 SUPREME COURT 3100.

Furthermore, the claimant requested that severe actions be taken against women who appeared in court with unclean hands. The Supreme Court, referencing various past rulings, determined that a law cannot be declared unconstitutional solely based on the potential for misuse. Section 498A could not be reversed due to its focus on addressing the issue of dowry. The Supreme Court acknowledged that numerous cases have arisen where the complaints under 498A IPC are unfounded, but emphasised that the courts must abide by the law until procedures are established to handle such complaints.

Analysing 498A of IPC & 85 of BNS

1. Due to a lack of recognition in the legal system, there is Prejudice based on gender. In the prevalence of cruelty and domestic violence against males. It is rare for men in India to experience extortion or violence in domestic relationships, while women often lodge complaints under s. 498A.

2. It is crucial to remember that Section 498A is a serious offence that allows for immediate arrest by police and cannot be settled out of court by the victim i.e. wife[47].

3. Corruptions within the police force often led to random arrests being made without proper investigations being conducted.

4. A dowry passage is commonly utilised to direct presents that the Parents of the bride give to attract the bridegroom.

5. There are no consequences for making false accusations or committing perjury[48].

6. Despite the high rate of charge sheeting, the conviction rate under section 498A is low, suggesting that many cases lack substantial evidence.

7. With the replacement of section 498A to section 85 and 86 BNS, we still have similar issues.

Misuse of the Section 498A

Research carried out by Straus (1993, 1997), alongside analyses employing the Conflict Tactics

[47] Taru Singhal, *The Double-Edged Sword: Uncovering the Misuse of Section 498A IPC by Women in Marital Disputes* (2024), https://doi.org/10.2139/ssrn.4790189
[48] Shreya Chhetri, *Misuse of Anti-Dowry Law by Women* (2016), https://doi.org/10.2139/ssrn.2760370.

Scale (CTS) data, suggests that women report participation in incidents of domestic violence (including slapping, pushing, or grabbing) at rates comparable to or even lower than those of men within intimate relationships[49]. These findings challenge the notion that women are exclusively victims of domestic violence and raise concerns regarding the potential misuse of gender-specific legislation, such as Section 498A, to target males in circumstances where a conflict between a woman and a man is inherently gender-neutral[50]. Rather than being used as a weapon for assassins, the provision is intended to function as protection. The fact that a legal provision could be abused does not automatically make it illegal[51]. Currently, Women are taking advantage of the legal system. Therefore, the area was created to benefit women who had experienced abuse, but some of them exploited it as a tool to invent false accusations against their spouse and his family[52]. Certain researchers have suggested that the phenomenon of domestic violence, specifically spousal abuse, is not exclusively characterised by incidents of wife battery, as instances of violence perpetrated by wives against their husbands, often referred to as husband battery, are also significantly underreported. It has become increasingly recognised that, in certain cases of domestic violence, men may indeed be the primary victims rather than women[53]. This challenges the prevailing legal presumption that only women are subjected to abuse, thereby highlighting the potential for the misuse of laws that have been developed solely for the protection of women. Critics argue that Section 498A of the IPC is poorly drafted, allowing women to make false accusations, leading to the wrongful incarceration of innocent men and their relatives without a proper probe[54]. Due to gender stereotypes, society, as well as the legal system, believes that under this provision, only women can be the victim, not men. As a result, the concept of a male victim is frequently dismissed, with victims predominantly perceived as powerless and helpless, typically reflecting the experiences of females. This stereotype fosters the devaluation of male victims and reinforces legal frameworks, such as Section 498A, which fail to acknowledge or protect male victims of abuse, thereby leaving them vulnerable to both abuse and potential misuse of the legal system[55].

[49] Angelika Poulsen, *Childhood Corporal Punishment Experiences and Associated Involvement in Intimate Partner Violence in Adulthood* (2025).
[50] Meghna Bhat & Sarah E. Ullman, *Examining Marital Violence in India: Review and Recommendations for Future Research and Practice*, 15 TRAUMA VIOLENCE & ABUSE 57 (2014).
[51] Kans Raj v. State of Punjab, AIR 2000 SC 2324.
[52] Verena Kolbe & Andreas Büttner, *Domestic Violence Against Men—Prevalence and Risk Factors*, 117 DEUTSCHES ÄRZTEBLATT INT'L 534 (2020)
[53] Id.
[54] Sawmya Ray, *Legal Constructions of Domestic Violence*, 55 SOCIOL. BULL. 427 (2006).
[55] Kristin L. Anderson & Debra Umberson, *Gendering Violence: Masculinity and Power in Men's Accounts of Domestic Violence*, 15 GENDER & SOC'Y 358 (2001).

As per supporters of men's rights, married men accused of crimes have been convicted due to the negative impact of these legal proceedings on society. The public in India commonly thinks that this provision is primarily used to make unfounded allegations against a blameless husband and his relatives to torment or extort them[56]. In **Kans Raj v. State of Punjab**[57], it was stated by a three-judge Supreme Court panel that "not all cases can blame the husband's in-laws or other relatives. These individuals cannot be blamed for their actions without solid evidence; instead, their actions must be proven with certainty. It is essential to put an end to the habit of considering the husband's relatives as potential suspects. The Court decided that Section 498A does not allow any family member to be oppressed and abused without solid evidence to support the allegations, not just on suspicion[58]. In the case of **Veerudu v. The State**[59], the court ordered an end to the damaging act of submitting untrue grievances, which had been inflicting unnecessary pain on the husband and his relatives. It is falsely depicted as a tactic "used by civilised elite women to provoke their husbands and in-laws for payback," rather than as a means of resolving a violent personal issue. In the case of **Geeta Mehrotra and Ors vs. State of UP and Ors**.[60] The Court expressed the view that the First Information Report did not delineate specific acts of cruelty perpetrated by the appellants, thereby constituting a misuse of the legal process. Misleading claims are being employed to undermine the effectiveness of the law, as it is often seen as a harmful tool. Women use this tool to ensnare their spouses and loved ones, instead of a necessary measure to safeguard family unity and ensure women's right to live without violence. Certain proponents of these changes have proposed that women who invent cases should be held accountable through legal measures or other repercussions. There is no study or empirical evidence to back up the allegations of law abuse. Patriarchal worry sees this provision as a disruptor of the hierarchical power structure, which creates baseless allegations of mistreatment. Husbands who have been arrested or are on the verge of getting arrested or penalised are protesting against such injustice. Moreover, protesting husbands were joined by netizens, advocates, judges and other executives from different fields following the ultimate motive, i.e. injustice due to the increasing number of false complaints. In July 2023, the High Court of Jharkhand admitted that, although the provision was for the protection of women from abuse and harm, at present section 498A is often misused for revenge purposes.

[56] Vijay Kumar Dewan, *LAW RELATING TO DOWRY PROHIBITION: AN UP-TO-DATE, LUCID AND EXHAUSTIVE COMMENTARY WITH CASE LAW ON THE DOWRY PROHIBITION ACT, 1961* (2010).
[57] Kans Raj v. State of Punjab, AIR 2000 SC 2324.
[58] Dara Lakshmi Narayana & Ors. v. State of Telangana & Ors., 2024 SCC Online SC 3682.
[59] Veerudu v. The State, (1989) CRLJ NOC 52 (A.P.).
[60] Geeta Mehrotra and Ors. Vs State of UP and Ors., AIR 2013 SUPREME COURT 181

In the case of **Sushil Kumar Sharma v. UOI**[61], the Supreme Court stated that the misuse of Section 498A IPC could lead to a form of legal terrorism. In the case of **Saritha v. R. Ramachandran**[62], the family court rejected the wife's petition for divorce because it could not prove the husband's allegations. During the high court hearings, it was revealed that the woman had lodged a criminal complaint against her husband under Section 498A of the IPC. In recent years, there has been a rise in the misuse of Section 498A IPC, which aims to prevent cruelty towards women by husbands or their relatives, leading to the distortion of its initial purpose. The serious issue of wives misusing this section to seek revenge on their guiltless husbands and in-laws is a cause for worry. These actions weaken the purpose behind the creation of the legislation[63]. We must take action to stop this exploitation. After the effective enactment of the 1983 law, the 2014 decision by the Supreme Court in **Arnesh Kumar v. State of Bihar**[64] declared that Section 498A is among the provisions misused as a tool rather than a protection for unhappy wives. In this case, the wife alleged that she was expected to provide a dowry and was expelled from the marriage for not fulfilling this requirement. The husband's request for preliminary bail was denied. Therefore, the court set out rules that a police officer must follow when arresting under Section 498A of the IPC, 1860. The seriousness of the crime must justify the arrest. As per NCRB, there has been misuse of this law; in 93% of lawsuits filed under Section 498A by female spouses, only 15% of the accused were acquitted. If laws such as IPC 498A are misinterpreted, it will lead to the disintegration of the family. In the case of **Sushil Kumar Sharma v. Union of India**[65], the Supreme Court acknowledged that Section 498A is constitutional and does not empower an unfit individual to misuse it, but it is often used without a clear purpose. The petitioner stated that women who make untrue allegations against their partners should be subject to harsh consequences. In the 1996 **DK Basu v. State of West Bengal**[66] case, implementing measures to ensure strict adherence to the laws concerning arrests, as outlined in the D.K. Basu case and incorporated into Chapter V of the statute, can help prevent the abuse of the law. Someone who breaks the law will have to deal with serious repercussions. The laws should not be too stringent to prevent future discussions for personal benefits. Instead of enforcing the law, the court needs to uphold justice. It is important to

[61] Sushil Kumar Sharma v. UOI, 2005 AIR SCW 3569.
[62] Saritha v. R. Ramachandran, 2.3 JCLJ (2022) 1290.
[63] Pradeep Panda & Bina Agarwal, *Marital Violence, Human Development and Women's Property Status in India*, 33 WORLD DEV. 823 (2005).
[64] Arnesh Kumar v. State of Bihar, AIR 2014 SUPREME COURT 2756.
[65] *Sushil Kumar Sharma*, AIR 2005 SUPREME COURT 3100.
[65] 2024 SCC OnLine SC 1244.
[66] DK Basu v. State of West Bengal, AIR 1997 SUPREME COURT 610.

remember the societal goal of the Section and the necessity of punishment, as women could potentially misuse the law in the future to harm their husbands and families. Furthermore, if complaints are filed with incorrect allegations, the extent of the situation should be restricted. Assistance from professionals is needed to make efforts towards achieving reconciliation. There are no emergency centres available at women's police stations to provide the immediate help women require, even in major urban areas. Addressing the needs of abused women must be a top concern for the government. In the case of **Savitri Devi v. Ramesh Chand**[67], the problem caught the court's attention of uncontrolled misuse of the law and underscored the connotation of legally prescribed standards when questioning Section 498A IPC. The case of **Sushil Kumar Sharma v. Union of India (UOI)**[68] examined the constitutionality of section 498A IPC in a historic manner. The main cause is that married women, police, investigative agencies, etc., misuse the provision to bother the accused and their family, as it is a crime that is both cognisable and non-bailable. Justices Arijit Pasayat and H.K. Sema of the Supreme Court's two-judge panel confirmed the legality of section 498A, stating that the possibility of misuse does not make it illegal. However, the court observed that just because the Section is considered constitutional, it does not mean that individuals can seek personal revenge. The court labelled the misuse of Section 498A as "legal terrorism" and emphasised the duty of the police and investigative agencies to prevent the wrongful detention of innocent individuals based on false accusations. Furthermore, in cases such as **Ramgopal v. State of MP**[69], **B S Joshi v. State of Haryana**[70], **Manoj Sharma v. State & Ors.**[71], In **Madan Mohan Abbott v. State of Punjab**[72], and **Rajeev Verma v. State of UP**[73], the courts have supported making the offence compoundable. The Statute Commission suggested that this statute should be made compoundable in both its 154th and 237th Reports, as well as in the courts. The Malimath Committee Report from 2003 suggested that Section 498A IPC should be made bailable and compoundable due to its misuse as a tool of harassment[74]. If the woman depends entirely on her husband for financial support, his arrest and subsequent unemployment from the criminal case would worsen the situation. The Law Commission Report of 2011 suggested that section 498A of the IPC should be made compoundable. The study highlighted the importance of

[67] Savitri Devi v. Ramesh Chand, 2003 CRILJ 2759.
[68] Sushil Kumar Sharma v. Union of India, 2005 (6) SCC 281.
[69] Ramgopal v. State of MP, 2011 AIR SCW 1193.
[70] B S Joshi v. State of Haryana, AIR 2003 SUPREME COURT 1386.
[71] Manoj Sharma v. State & Ors, (2008) 16 SCC 1.
[72] Madan Mohan Abbott v. State of Punjab, AIR 2008 SUPREME COURT 1969.
[73] Rajeev Verma v. State of UP, 2004CRILJ2956.
[74] Siva Sanchana R., *Efficacy of Section 498A of the Indian Penal Code* (2023), https://doi.org/10.2139/ssrn.4309884

preventing Section 498A from becoming counterproductive. The Law Commission recommended implementing strong legal measures against women under specified sections of the IPC and CrPC to lessen the number of frivolous cases filed under Section 498A[75]. Section 498A is non-bailable and non-compoundable. The committee noted that it goes against the interests of both the husband and wife since:

8.1 Because these complaints can damage relationships indefinitely, they create a major hurdle for the divorced couple in staying connected post-marriage.

8.2 Although the parties have made peace, the legal case against the spouse and family members remains unresolved due to its non-compoundable nature.

8.3 Because it cannot be bailed, it greatly upsets the spouse or family when faced with an unjust accusation.

According to the leader of a State Commission for Women in India, many women are misusing the anti-dowry law (498A of the IPC) to mistreat their husbands and their families. She stated that it was a cruel and brutal method of threatening husbands and in-laws. During his appearance before India's National Commission for Women on January 31, 2009, Chief Justice K. G. Balakrishnan expressed that Section 498A was being used inappropriately and that innocent family members were often falsely implicated in marital conflicts.

Review of Section 498A by the Supreme Court

In the matter of **Preeti Gupta & others vs. State of Jharkhand & others**[76] The Supreme Court of India rejected the criminal case against the sister-in-law and brother-in-law, who live in different states, which was still pending under Section 498A IPC. The Hon'ble S.C.I. emphasised that most complaints under section 498A IPC are hastily filed without proper discussion on minor issues. The Honourable Court has seen several complaints of this type, many of which are brought with an ambiguous intent and are not even genuine. It is also typical for the spouse and all his close family members to be implicated, and it is believed that the law calls for a thorough re-examination of the whole clause. The Law Commission of India submitted its 243rd report on August 30, 2012, and reiterated that the provisions of the 498A

[75] LAW COMM'N OF INDIA, *SECTION 498A IPC* (Rep. No. 243, 2012).
[76] Preeti Gupta & others vs. State of Jharkhand & Ors., 2010 (7) SCC 667.

IPC should be made compoundable but not bailable, considering the Supreme Court's decision in **Preeti Gupta vs. State of Jharkhand & others**[77]. The Law Commission of India issued the following recommendations in its 243rd report, released on August 30, 2012, after considering the judgment in **Preeti Gupta vs. State of Jharkhand & others**[78] and the provisions of the 498A IPC issued by the Hon'ble Supreme Court of India:

9.1 Approval from the court is needed to combine an offence under section 498A

9.2 Bail should not be available for the offence. Yet, strict compliance with the content and intent of the rules specified in sections 41 and 41A of the Code of Criminal Procedure, 1973, offers a safeguard against random and unjustified arrests.

9.3 There should be a vigilant department in the Indian legal system to look out for such frivolous cases filed under the provision 498A.

Conclusion

As a final observation, the analysis in the context of misuse of Section 498A conveys the broader paradox between ensuring justice for victims and preventing the exploitation of this legal provision. One can achieve A careful balance can be achieved through a combination of judicial oversight, procedural safeguards, social awareness, and ongoing legislative refinements. By addressing the issue holistically, India can uphold the integrity of its legal framework while fostering a society in which justice prevails and gender equality is realised. Ultimately, Section 498A should exemplify the capacity of the rule of law to protect the vulnerable without compromising fairness & equity. The misuse of Section 498A of IPC remains a significant topic of legal, social, & moral discourse. Originally enacted to provide robust protection for women against cruelty and dowry-related harassment, this provision has served as a key tool for tackling a serious social evil. However, the reported instances of its misuse have raised concerns regarding the law being used as a weapon rather than a shield, thereby emphasising the necessity for a balanced approach to its application[79]. The critical challenge consists of ensuring that the law continues to fulfil its primary purpose of protecting women from genuine instances of cruelty while preventing its abuse. Judicial interpretations &

[77] Preeti Gupta, 2010 (7) SCC 667.
[78] Id.
[79] M. Mani, *Misuse of Section 498A, Indian Penal Code, 1860*, 3 INT'L J. LEGAL SCI. & INNOVATION 598 (2021).

legislative reforms have played a focal role in navigating this balance. For instance, the Supreme Court of India, through judgments such as **Arnesh Kumar v. State of Bihar**[80], has highlighted the necessity of procedural safeguards to mitigate the misuse of Section 498A. These safeguards include guidelines on arrests & the requirement for preliminary investigations before filing charges. Such measures aim to protect innocent individuals from harassment without undermining the law's protective essence. Furthermore, the incorporation of mediation & counselling mechanisms as part of dispute resolution processes has further heightened the law's effectiveness. These alternatives not only reduce the potential misuse of legal proceedings but also offer a pathway for reconciliation, particularly in cases involving marital discord. Additionally, reforms such as the Criminal Law Amendment Act, 2013, & subsequent guidelines from the Law Commission have strengthened safeguards against frivolous complaints, reflecting a nuanced understanding of the issue.

Suggestions

Legal practitioners should carefully examine the current legal framework to identify any ambiguities and amendments that may be susceptible to misuse to magnify its clarity, which fulfils the primary objective of this law.

Training programmes for law enforcement and judicial officers can improve their comprehension of issues related to cruelty and the implications of Section 498A. This betterment will empower them to manage cases with greater sensitivity and discernment, thereby decreasing the likelihood of wrongful accusations.

Society engagement campaigns play a fateful role in educating the public about the implications of Section 498A, benefiting both victims and the accused. By enhancing understanding of the law, individuals are less likely to misuse it, and victims may feel more empowered to seek assistance without the fear of stigma.

Support systems are requisite in order to offer both the victim and the falsely accused additional resources and guidance. Counselling services, legal aid, and community support groups can all make an important contribution toward facilitating navigation through domestic disputes in a manner promoting healing and resolution rather than conflict.

[80] Arnesh Kumar, AIR 2014 SUPREME COURT 2756.

Establishing community safe houses where victims can seek refuge and access support services, thereby ensuring they have a secure environment to recover and obtain assistance.

Deploy mobile support units that can access victims in remote areas, supplying them with resources and information regarding their rights and services available to them.

Develop initiatives that empower victims to take control of their circumstances by providing them with the necessary tools and resources to make informed decisions regarding their lives.

Establish feedback channels that enable victims to discuss their experiences with the judicial system, thereby aiding in the identification of areas requiring improvement.

Introduce restorative justice initiatives that prioritise healing and reconciliation over punishment, thereby enabling families to resolve disputes amicably.

Formulate a policy that acknowledges the experiences of all genders in adverse situations, recognising that men can also be victims