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**CRUELTY UNDER SECTION 498A OF THE INDIAN PENAL CODE IN  
REFERENCE TO INJUSTICE TOWARDS WOMEN – A CRITICAL  
ANALYSIS**

**ABSTRACT:**

*Section 498A of the Indian Penal Code was introduced as an amendment in 1983. It can only be used by married woman to protect herself in case her husband or relatives of husband harass her. But in the light of recent scenarios, it is seen that the main objective of this law is being discarded and instead it is used by the women to harass her husband and/or his relatives for money. The tables have been turned nowadays and no one could ever imagine such misuse of the law while it was being drafted. This offence is non – bailable, non- compoundable and cognizable which gives the authority to women to use this law as a threat and exploit her spouse and his relatives. In this research paper the misuse of this law is elaborated upon and a critical analysis is being done. Judicial interpretations have been discussed to give a clarity about this law and its misuse. This law needs to be amended in a way that these loopholes are being taken care of. in order to make Sec 498A more effective, we must implement a new policing approach, such as the victim empowerment model.*

**KEYWORDS:**

*Married woman, Exploit Spouse, Misuse of law, Non- bailable, Non- compoundable, Cognizable*

**What is section 498A of IPC?**

The offence of matrimonial cruelty is defined under Section 498A of the Indian Penal Code (IPC), which was added to the IPC by an amendment in 1983. Section 498A of the IPC is a punitive provision that works in conjunction with other articles in the Code of Civil Procedure to have a deterrent effect. The offence is non-bailable (you must appear in court and obtain bail from the judge), non-compoundable (the complaint cannot be withdrawn), and cognizable (arrests without investigation or warrants) on a complaint submitted to the police officer by the

victim or designated relatives. Indian Penal Code 498A, passed by the Indian Parliament in 1983, is a criminal law and not a civil law which is defined as follows:

*"Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. The offence is Cognizable, non-compoundable and non-bailable.*

*The section provides an explanation that elaborates the meaning of cruelty as follows:*

*a) Any willful conduct which is of a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb, or health (whether physical or mental) of the woman; or*

*b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."*

498A can only be used by the wife/daughter-in-law or a relative of the wife/daughter-in-law. The majority of cases in which Sec 498A is invoked turn out to be fake, since they are merely blackmail attempts by the wife (or her close relatives) in the face of a difficult marriage. In the majority of situations, a 498A complaint is followed by a demand for a large sum of money (extortion) in order to settle the issue outside of court.

### **Why was section 498A of IPC introduced?**

After witnessing the widespread prevalence and severity of recorded examples of female cruelty, Section 498A was enacted in 1983. A substantial number of women were dying in their wedded homes as a result of dowry-related abuse, prompting demands for criminal law reform. As a result, the first demand was for a law that would exclusively prevent dowry-related violence. In 1983, Sec 498A was added to the IPC, followed by Sec 304B in 1986, which defined the unique offence of dowry-related death of a woman, as well as modifications to the Indian Evidence Act 1872. Sec 498A and Sec 304B are thought to have been introduced in unison as part of a scheme, as Sec 304B covers the specific offence of dowry death and Sec 498A targets the widespread abuse against married women for dowry.

### **ESSENTIAL ELEMENTS OF THIS SECTION**

For the commission of an offence under Section 498-A, following necessary ingredients require to be satisfied:

- The woman must be married;
- She must be subjected to cruelty or harassment; and
- Such cruelty or harassment must have been shown either by the husband of the woman or by the relative of her husband.

This section's bare perusal points out that the word 'cruelty' covers the occurrence of the following Act(s):

- any willful behavior which might lead a woman to suicide or cause serious damage or danger to life, limb, or life;
- a woman's health (mental or physical);
- The harassment of a woman in the event of such harassment, with a view to obliging her or any other person related to her to fulfil an illegal requirement for any property or valuable security.

### **Misuse of section 498A of IPC**

Misuse of Section 498A is no longer a myth. In India's last 20 years of criminal law reform, a recurrent argument levelled against laws dealing to violence against women has been that women exploit such laws. In various precedents, married woman have filed a falsified accusation using Section 498A of the IPC and formed her husband as a result of the regulation. Well-educated women realize that it is both cognizable and non-bailable, meaning that it can be triggered by a woman's simple accusation, placing the male behind bars. Such "misuse" claims were fiercely pushed by the police, civil institutions, politicians, and even High Court and Supreme Court judges. But at the same time, there are no regulations in place to safeguard men from the exploitation of women. Furthermore, section 498A of the IPC was misapplied in each and every district court case.

The wives use this law as a tactic to extort money from their spouses. It is a truth that females wrongly use Section 498A of the IPC against their spouses and in-laws. Although Section 498A is intended to safeguard women, nowadays it is used by spouse to abuse her husband and in-laws. This scenario has a horribly negative impact on society. In its 243 reports on IPC Section 498A, the Law Commission addressed the problem of misuse of this clause.

The lawmakers drafted and put Section 498A into the legal structure with the goal of safeguarding women from cruelty, harassment, and other offences. However, when cross-investigations were conducted to test the validity of these laws, the number of acquittals was higher than the number of convictions. As a result, the Supreme Court, which enacted 498A with the intention of protecting women from cruelty, now views it as legal terrorism. Because overuse of Section 498A weakens its genuine credibility. That is one of numerous reasons why it is said to as an anti-male statute. Although there have been numerous complaints and even large-scale misuse has been acknowledged by the courts, there is no credible empirical data on the degree of the claimed misuse.

### **JUDICIAL INTERPRETATIONS:**

In the precedent of *Chandra Bhan v. State*, the Hon'ble Court introduced the steps to prevent the misuse of this Section: FIR should not be regularly reported as such; Police endeavor should be to carefully screen complaints and then register FIR; No case should be registered under section 498-A/406 IPC without the prior authorization of DCP / Addl. DCP; Before FIR registration, all possible reconciliation efforts should be made and, if it is found that there is no possibility of settlement, necessary steps should be taken in the first instance to ensure that stridhan and dowry articles are returned to the complainant; The arrest of the key accused can only be made after a proper investigation and with the prior approval of the ACP / DCP has

been performed; In the case of collateral accused such as in-laws, prior approval of DCP should be there on the file.<sup>1</sup>

In the judicial interpretation of *Savitri Devi v. Ramesh Chand & Ors*, the Hon'ble Court expressly regulates the misuse associated with the manipulation of laws to such an extent that it was completely influenced by the impact of marriage itself and so deemed not to be intelligent for the benefit of the large community. Authorities and lawmakers, according to the court, needed to study the case and the legal measures in order to prevent this from happening again.<sup>2</sup>

In the precedent of *Saritha v. R. Ramachandran*, the Court highlighted the reversal of trend and asked the Law Commission and Parliament to create a non-cognizable and bailable offence. However, it was the court's responsibility to condemn misbehavior and protect the victim from the consequences of becoming the abuser. The husband's cure will be as follows. On this basis, the woman may divorce her husband and remarry, or she may receive monetary compensation.<sup>3</sup>

In the judicial interpretation of *Anju v. Govt. of NCT of Delhi*, the wife of the Petitioner challenged the order of the Lower Court, whereby the Court discharged the charges against the respondents under section 498A/34 of the Indian Penal Code. In considering the circumstances of the case, the Court noted that the Petitioner's wife mentioned all members of the family in one breath in the FIR, without assigning any specific role to any of them. As a result, no information was provided as to when the alleged incidents occurred, nor were any evidence provided to establish or confirm the charges against the spouse's family. The Court further pointed out that the allegations levelled against the defendants were broad and vague. The plaintiff did not mention a date, time, month, or year when she was subjected to beating them. In light of the foregoing facts and circumstances, the High Court of Bombay upheld the Revisional Court's decision, holding that the Court did not err in concluding that, aside from the general and omnibus allegations that implicated all parties, there is no recorded material to justify the filing of charges under Section 498A IPC.<sup>4</sup>

In the precedent of *Sushil Kumar Sharma v. Union of India*, the Supreme Court concluded in *Sushil Kumar Sharma v. Union of India* and others that the objective of the clause is to avert a menace of dowry. However, as the petitioner correctly points out, there have been several cases where complaints have been submitted that are not genuine and have an indirect motivation. In these circumstances, the accused's acquittal will not, in any event, wash away the humiliation he or she endured before and before the court. The predicament is exacerbated by negative media attention.<sup>5</sup>

### **Conclusion and suggestions**

The justice system must respond to domestic violence in a coordinated and systemic manner. Despite the fact that Sec 498A is one of the most significant criminal law amendments protecting women's rights, it is insufficient and we must remember that criminal law is a blunt instrument, as it is extremely difficult to change police culture; even if the law considers domestic violence against women to be a crime, the police may still fail to follow the law and properly apply it. As a result, in order to make Sec 498A and other criminal law remedies more

<sup>1</sup> Chandra Bhan Singh v. State of U.P., 2013 SCC OnLine All 936

<sup>2</sup> Savitri Devi v. Ramesh Chand & Ors., 104 (2003) DLT 824 : 2003 (69) DRJ 6

<sup>3</sup> Saritha v. R. Ramachandra, 2002 SCC OnLine AP 631

<sup>4</sup> Anju Bharti v. Govt. (NCT of Delhi), 2016 SCC OnLine Del 3631

<sup>5</sup> Sushil Kumar Sharma v. Union of India, AIR 2005 SC 3100

effective, we must implement a new policing approach, such as the victim empowerment model outlined above. It is necessary to develop a model that will implement pro-arrest processes and social service networks at the police station in order to provide victims with alternative support services. Most importantly, we must seek to improve standard and consistent policing, ensuring that domestic abuse is taken seriously. A research and development plan are urgently needed to improve the current state of knowledge about the influence of legislative punishments on domestic abuse. Simply passing an Act and scribbling it on legal paper does not guarantee that its primary goal will be met.

If the laws against domestic abuse are to be enforced, the Court and legislation must improve. In the light of the recent events, some suggestions to this act are as follows:

A speedy trial in 498A cases would not only assure restitution for innocent people who were falsely accused, but it would also let the true donor victims' concerns to be addressed quickly. The number of fraudulent cases will decrease, but the number of actual prosecutions will increase.

Because of their non-leasing behavior, 498 A are victims of unintentional mistreatment. This region should be ransomed to prevent innocent young people, pregnant sisters, and college students, from languishing in jail for weeks with no one to blame.

If the married lady realizes she made a mistake and has to return home after filing a FIR, the case cannot be dismissed. To save a lot of money on a wedding venue, this may be made compoundable. In fact, where the couple want to dissolve their marriage by consensual divorce, the continuation of criminal investigations is hampered.

Several incidents of men who have been assaulted by their spouses or in-laws have come to light from all over the world. Because there is currently no organization that can make it exceedingly easy for these busy people and their families to pay attention to their side of the storey and establish a goal of reading ahead of the government. The current objective is to establish family substance abuse centers across the country to aid those families who have been harmed.

In the understanding that most girls in the husband's family endure legal harassment, these organizations should appropriately analyze critique without prejudice to the girl. No woman should be able to make a criminal complaint against her in-laws for having extramarital affairs. Furthermore, these organizations will investigate the misuse of the action and educate the public about its consequences.

If a court decides that the charges levelled against the accused persons in connection with the commission of an offence under section 498a of the IPC are false, the accused persons shall face severe punishment. It will dissuade persons from returning to court with dirty hands and hidden agendas. All officials who help in unjustly incriminating girls and their families should face criminal charges.

Civil authorities scatter the investigation into these offences, and cognizance will be taken only after the conclusion on the crime's execution is reached. The government should educate cops on the dangers of its misuse.