

A Critical Study on Misuse of Section 498A of Indian Penal Code, 1860

¹A. Hashika and ²M. Kannappan

¹Saveetha School of Law,

Saveetha Institute of Medical and Technical Sciences,

Saveetha University, Chennai. hashikasrk@gmail.com

²Saveetha School of Law,

Saveetha Institute of Medical and Technical Sciences,

Saveetha University, Chennai. kannappanm.ssl@saveetha.com

Abstract

India could be a country wherever Rites and customs have compete a significant role of the society. During which dowry was one amongst the practices prevail in our society from long amount. Initially, this apply was treated as blessing however it took an unpleasant flip and became a curse for the society as a result of the ladies fell prey of the greed of their husbands and of his family. Moreover, this apply became a reason for harassing the ladies and inflicting mental in addition as physically cruelty. Thus, for the protection of girls, the Government of India inserted Section 498A underneath IPC by the change Act 1983. However within the recent state of affairs, there square measure cases seen wherever ladies misuse Sec 498A of IPC and legal Provision of dowry Prohibition Act etc. By filing case against her husband and her in-laws and find the benefits of the support payment and different remuneration. This section has created biggest downside in a very current state of affairs for men as being discriminated and such laws are being victimized by ladies and there's a desire of amendment in section 498A therefore on defend men and for effortful ladies misusing identical. Misuse of dowry laws is not a recent phenomenon and the judiciary of India is totally responsible for the growing misuse of dowry law and the result is abuse of innocent men in the process. In many cases, men have even committed suicide, when their wives have harassed them to approach police or court, to send them behind jail, for no reason.

Key Words:Dowry, section 498A , indian penal code, misuse, cruelty.

1. Introduction

India has additionally been a rustic wherever customs and rituals are not solely followed however praised. Dowry was one among them that were followed in our society since an ancient amount. Dowry is an quantity of property or cash brought by a bride to her husband on their wedding. Dowry given during a wedding is for the security of the female offspring and it thinks like blessings for her. It's seen that the husband and their families were harassing bride for dowry and torture her to require cash from her parental house. Once seeing this practice Central government has created a law to shield the ladies from ill effect of dowry. Dowry Prohibition Act 1961 was launched to protect ladies and additionally Section 498 A of Indian penal code 1860 came into force to shield the bride from her husband and their in-laws. This Section 498A is reliable for the protection of ladies. However during a recent situation it had been seen that these legislation has become a curse to men within the society. The women were started misusing these laws for his or her profit. The question arises that dowry prohibition Act 1961 is for the protection or for the advantage of women and Section 498A is reliable within the society. Men's were started exploiting by their ladies. Once the study of this situation observed that, there's no such law to shield the boys from exploitation.

Section 498A in the Indian Penal Code

Husband or relative of husband of a woman subjecting her to cruelty. 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. Explanation. For the purpose of this section, "cruelty" means:

- (a). any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) 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.

The aim of the study is to understand whether the section 498A of Indian penal code , 1860 is misused by women

Research Question

Whether the misuse is over shading the actual cruelty ?

Objectives

- To understand the section 498A
- To address the issues of misuse
- To suggest avoiding of misuse without affecting the women's rights

Hypothesis**Null Hypothesis**

Section 498A of Indian penal code , 1860 is not misused against Husband and his relatives

Alternative Hypothesis

Section 498A of Indian penal code , 1860 is misused against Husband and his relatives.

Material & Method

Method used is Doctrinal Method . Material are used mainly primary resources referred like books , journals , articles and e sources.

Result of the Study

Modern women are stated to misuse the section 498A of the Indian Penal Code , 1860

2. Review of Literature

The article covers section 498A of the ipc relating to criminal law in which the wife and her family can charge against her husband and his family for physical and mental cruelty. This law is unique in india as it not only discriminates based on gender and this section is for almost women of all ages .(“Sec 498A of the Indian Penal Code a Weapon in the Hands of Vamps” n.d.) . The very beginning, Section 498A has been targeted by various ‘men’s rights activists’. They claim that women are ‘misusing the law’, ‘misuse is reflected in the low conviction rate and high arrest rate’ and so on. They have succeeded in influencing various institutions of the state, which has now resulted in the complete dilution of the law. It’s an established fact that mere low conviction rate does not mean the law is being misused. Higher acquittals may also result from inadequate investigation, the benefit of doubt given to the accused or bias against women accessing the law(“The Dangerous, False Myth That Women Routinely Misuse Domestic Cruelty Laws - The Wire” 2017)

While, as in case of any other legislation, 498A too has been prone to misuse, such cases have been largely anecdotal. Section 498 A is perhaps the most reviled of all laws dealing with marital disputes, especially among men’s rights groups who have been campaigning to have it scrapped. They often cite its frequent “misuse” and hold up court judgments such as the recent one to validate their position.(Nair 2017). Section 498A was enacted to meet dowry deaths. It’s object was to protect woman who is being harassed by her husband or relatives of husband. The act of harassment would amount to cruelty under this section. Section 498A in it true nature is a wide section, which needs deep interpretation. No law is independent, interdependence of status is normal in making clarity of the problem that has arisen. (Legal Salah 2016). The Supreme Court on Monday said false complaints under section 498A if indian penal code

against innocent in-laws alleging cruelty and harassment at matrimonial homes were increasingly making the husbands adamant not to take back their wives. "For no fault, the in-laws, especially old parents of the husband, are taken to jail the moment a false complaint is filed against them by a woman under Section 498A(Mahapatra 2014)

The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grand fathers and grand mothers of the husbands, their sisters living abroad for decades are arrested. ("Website" n.d.). Cruelty against women within the institution of marriage posed certain difficulties in matters of prosecuting the accused and proving the guilt. This was because, more often than not, women bear their sufferings in silence. Obtaining independent witnesses is also a difficult task because the violence against the wife is generally inflicted within the four walls of the house, away from public gaze. Further, demands for dowry and harassment of women if they fail to meet the demand, may not always be in the form of direct assault on the body of the woman. The violence is generally in subtler and more discreet forms (e.g., mental cruelty), but equally tortuous, many a times driving the woman to take her own life. ("Section 498A of IPC, Cruelty" 2017)

A higher proportion of acquittals is often put forward as evidence to suggest that Section 498A of the Indian Penal Code has been continuously misused. This position appears to focus on interpersonal violence, overlooking the various subliminal factors governing the everyday lives of women, such as the varied forms of violence and the role of gendered state institutions in conceptualising and implementing law. This paper considers the complexities of law enforcement from the survivors' perspective to investigate the dynamics of the formation of a new perception regarding the misuse of Section 498A. ("Fallacies of a Supreme Court Judgment" 2015). Section 498A which deals with the punishment of the husband and his relatives if a married woman is subjected to cruelty which is likely to drive a woman to commit suicide or cause grave physical or mental injury to her, and harassment with a view to coercing her or any of her relatives to meet any unlawful demands of property. The offence is cognizable, non-bailable and non-compoundable. That the offence committed under said Section is considered to be very grave and the accused has to face stringent legal consequences. ("Use and Abuse of Section 498 A of Indian Penal Code - Legal News/Law News & Articles - Free Legal Helpline - Legal Tips : Legal India" 2016). India has also been a country where customs and rituals are not only followed but praised. Dowry was one of them which were practice in our society since an ancient period. Dowry is an amount of property or money brought by a bride to her husband on their marriage. Dowry given in a marriage is for the security of the daughter and it thinks like blessings for her. It is seen that the husband and their families were harassing bride for dowry and torture her to take money from her parental house. (Samarthya Pandey n.d.)

The Supreme Court did not shy away from observing that a large number of cases have come to light where the complaints u/s 498A IPC are not bonafide but since it is for the legislature to legislate, until it did not devise mechanisms to tackle frivolous complaints under 498A, the courts would have to continue to function within the prescribed parameters of law. The Judicial trend highlighting the rampant misuse of s.498A. As has been held in Sushil Kumar Sharma's case and many others, in case of misuse, the 'action' and not the 'section' must be struck down. The courts, using inherent powers u/s 482 Crpc have time and again quashed frivolous complaints filed u/s 498A IPC. ("PIJR - Paripex - Indian Journal Of Research-Misuse of Section 498A IPC-Judicial Trend" n.d.). The Supreme Court's decision in 2014 ruling out automatic arrests in Sec 498-A cases, the Supreme Court has once again issued important directions in dealing with cases registered under Sec 498-A of the IPC. The supreme court now directed that family welfare committees be constituted by the District Legal Services Authority. The committee will look into all such cases filed under Sec 498-A and submit a report within one month. The court also ruled that no arrests should be made before the committee submits its report. The court added that these rules will not apply to offences involving physical injuries or death. As different courts have in the recent past acknowledged the misuse of Sec 498A, we look at the number of cases registered under this section and the corresponding conviction rate. (Venu and Dubbudu 2017)

Increasing number of false cases of Dowry harassment against the husbands is now become so serious that the Government of India is proposing to amend Sec 498A to make the offence as 'compoundable'.¹ It may also be necessary to make it 'bailable'. There is no denial of the fact that woman require special protection in enjoying the human rights being enforced as integral part of Fundamental Rights guaranteed in Part III of the Constitution of India. (Mukund Sardar n.d.). Section 498A was inserted in the year 1983 in the Indian Penal Code of 1860 to stem the tides of dowry deaths. It aimed at punishing cruelty at the hands of the husband or his relatives against the wife, particularly when such cruelty had the potential to result in suicide or murder of a woman as mentioned in the statement of Objects and Reasons of the Act 46 of 1983. Section defining 'cruelty' covers conduct which may drive women to commit suicide or cause grave injury (mental/physical) or danger to life or harassment with a view to coerce her to meet unlawful demands of dowry. ("Attempt at Dilution of Section 498 A IPC -A Step in Regression | Lawyers Update" n.d.)

No need to amend Section 498A of Indian Penal Code which was being allegedly misused to harass husbands and their relatives. Some social activists who see a gender bias in this particular section of the IPC have been campaigning seeking an amendment to protect husbands and their relatives from being unduly harassed by wives. At the same time, the focus should be on prevention of misuse of laws protecting individual rights, as there have been instances of misuse of several other laws too. A social organisation called

Harassed Husbands Association had been set up in Bengaluru to protect the interests of harassed husbands(Patil n.d.)

The Indian Penal Code (IPC) 1860, under Section 498A, provides for keeping a check on the acts of cruelty caused to married women by their greedy husbands and relatives, which is either likely to result in their death, grave injury or danger to life, health, etc, or cause harassment with a view to force them to meet their unconscionable and unlawful demands. Although this provision was enacted to safeguard and protect the interests of married women, but there has been a growing tendency amongst them to misuse this provision by filing false cases against their innocent husbands and families including parents of advanced age, minor children, siblings, grandparents, etc, and thereby, causing them harassment and even arrest without any verifiable evidence of physical or mental injury. Such false cases and allegations may also hamper the possibility of reconciliation between the married couple.(Sushila Ram Varma n.d.) . “CRUELTY BY husband or his relatives”, covered under Section 498A of Indian Penal Code (IPC), makes up the largest chunk of all crimes against women. The charge, often levelled by a wife against her in-laws in cases of dowry harassment, accounts for over 30 percent of all crimes against women. The crime, however, has the lowest conviction rate. According to the latest data on crimes, released by the National Crime Records Bureau (NCRB), more than 3.3 lakh cases of crimes against women were registered in 2016. Of these, 1.1 lakh cases related to ‘Cruelty by husband or his relatives’. Cases under Section 498A was found to have the lowest conviction rate-merely 12.1 per cent-among all cases of crimes against women.(“Section 498A, Dowry: Most FIRs, Least Convictions” 2017)

One of the directives of the court is to set up ‘Family Welfare Committees’ in each district, which will preferably comprise of three members. These can be “paralegal volunteers/social workers/retired persons/wives of working officers/ other citizens who may be found suitable and willing”. The idea, the order reads, is to involve “civil society in the aid of administration of justice”, apart from sensitisation of investigating officers (IO) and trial courts(“SC’s New Directives on 498A Could Make Women More Vulnerable to Domestic Violence, Say Experts” 2017)

The Sections 498A and 304B of the Indian Penal Code (IPC) as well as the Protection of Women Against Domestic Violence Act, 2005, are three closely-related legal and judicial provisions designed to safeguard the interests of married women in India. They are very significant considering the large numbers of women that suffer domestic violence-physical, sexual, verbal, emotional, mental, et al—at the hands of their husband or the marital family. Whereas these laws deal with all forms of cruelty meted out by the husband or any of his relatives, quite notably, certain clauses of Section 498A also protect women in live-in relationships.(“Are Indian Women Misusing Section 498A? | Free Press Journal” 2015). In the past three decades, the provision has worked

towards achieving its objective by giving the married women an instrument in their hands for their protection. But if we try to see at the other side of this Section, it would not be wrong to say that this has given unbridled power to the hands of the married women which is sometimes being misused. The Section is a finest sword in the sense it gives the power to married women to get the husband and his relatives behind the bars for any trivial issues which arise between them. Since this case is cognizable on the complaint being made by the victim, the married women can get any relative of the husband sent to jail just by mentioning his or her name in the complaint to the police. The number of cases which are being filed each year under section 498A has considerably gone up but the conviction rate is very less as compared to the cases being filed. ("Section 498A- THE FINEST SWORD" n.d.)

3. Section 498A of Indian Penal Code, 1860

Section 498A in the Indian Penal Code

Husband or relative of husband of a woman subjecting her to cruelty. 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. Explanation. For the purpose of this section, "cruelty" means

(a). any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) 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.

The section was enacted to combat the menace of dowry deaths. it had been introduced within the code of Criminal Law of Amendment Act, 1983 (Act 46 of 1983). By identical Act section 113-A has been other to the Indian Evidence Act to lift presumption concerning instigation of suicide by woman. the most objective of section 498A of I.P.C is to guard a girl World Health Organization is being pestered by her husband or relatives of husband.

Section 113A in the Indian Evidence Act, 1872

Presumption as to abetment of suicide by a married woman.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative

of her husband.

Explanation- For the aim of this section 'dowry death' shall have a similar that means as in section 304-B of the Indian penal code, 1860. The object that section 498A IPC was introduced is abundantly mirrored within the Statement of Objects and Reasons whereas enacting Criminal Law (Second Amendment) Act No. 46 of 1983. As clearly expressed in that the rise in range of dowry deaths could be a matter of great concern. The extent of the evil has been commented upon by the Joint Committee of the homes to look at the work of the dowry Prohibition Act, 1961. In a number of cases, cruelty of the husband and also the relatives of the husband that culminate in suicide by or murder of the helpless lady involved, that represent solely a little fraction involving such cruelty. Therefore, it had been projected to amend IPC, the Code of Criminal Procedure, 1973 to deal effectively not solely with cases of dowry deaths however also cases of cruelty to married ladies by the husband, in-law's and relatives. The professed object is to combat the menace of dowry death and cruelty.

Meaning of Cruelty

*Kaliyaperumal vs. State of Tamil Nadu*¹ it was held that cruelty could be a common essential in offences beneath each the sections 304B and 498A of IPC. the 2 sections aren't reciprocally comprehensive however each are distinct offences associated persons guilty beneath section 304B for the offence of dowry death will be guilty for an offence beneath sec.498A of IPC. The that means of cruelty is given in rationalization to section 498A. Section 304B doesn't contain its that means however the that means of cruelty or harassment as given in section 498-A applies in section 304-B further. beneath section 498-A of IPC cruelty by itself amounts to associate offence whereas beneath section 304-B the offence is of gift death and therefore the death should have occurred throughout the course of seven years of wedding. however no such amount is mentioned in section 498-A.

*Inder Raj Malik vs. Sunita Malik*² was commanded that the word 'cruelty' is outlined within the clarification that lay to rest alia says that harassment of a girl with a read to squeeze her or any connected persons to fulfill any unlawful demand for any property or any valuable security is cruelty

Constitutional Validity of the Section

*Inder Raj Malik vs. Sunita Malik*³; it was contended that this section is ultra vires Article fourteen and Article twenty (2) of the Constitution. there's the dowry Prohibition Act that conjointly deals with similar styles of cases; thus, each statutes along produce a scenario unremarkably called criminal prosecution. however metropolitan court negatives this rivalry and control that this section

¹ 2004 (9) SCC 157; 2004 SCC(Cr) 1417; 2003 AIR(SC) 3828

² 1986 (2) Crimes 435; 1986 (92) CRLJ 1510; 1986 RLR 220

³ Ibid

doesn't produce scenario for criminal prosecution. Section 498-A is distinguishable from section 4 of the dowry Prohibition Act as a result of within the latter mere demand of dowry is punishable and existence of part of cruelty isn't necessary, whereas section 498-A deals with aggravated variety of the offence. It punishes such demands of property or valuable security from the partner or her relatives as are including cruelty to her. thus someone may be prosecuted in respect of each the offences punishable below section four of the dowry Prohibition Act and this section. This section offers wide discretion to the courts within the matters of interpretation of the words occurring within the laws and conjointly in matters of subsidisation penalisation. This provision isn't ultra vires. It doesn't confer whimsical powers on courts.

In the leading case of '*Wazir Chand vs. State of Haryana*⁴, involving the death by burning of a recently better half, the circumstances didn't establish either murder or associate degree abetted suicide and therefore in-laws at liberty the jaws of section three hundred and 306, however they were caught within the net of this recently enacted section for bar of harassment for dowry. to not speak of the items they're persistently demanding from the girl's facet, the actual fact that an outsized variety of articles were taken by her father once her death from her marital abode showed that there was pressure being exerted on-in laws and continuing to be exerted until death for extra money and articles. With the increase in improvement, education, monetary security and also the new found independence the novel feminist has created 498A a weapon in her hands. many another unfortunate husbands and in laws became victims of their revengeful daughter-in-laws. Most cases wherever Sec 498A is invoked end up to be false (as repeatedly accepted by High Courts and Supreme Court in India) as they're mere blackmail makes an attempt by the woman (or her shut relatives) once moon-faced with a strained wedding. In most cases 498A grievance is followed by the demand of big quantity of cash (extortion) to settle the case out of the court.

4. Use and Misuse of this Section

Use of this Section

Indian Courts had been exploitation this provision to safeguard the ladies from facing the cruelty faced by them at their married home. 9 out of 10 of the cases area unit continually involving gift, whereby the girl is unendingly vulnerable for wish of more cash and property that if remains unrealised, the better half is tortured, threatened, abused- each physically and verbally and troubled. Like within the case of *Ram krishan jain & Ors v State of Madhya Pradesh*⁵ thanks to insufficiency of gift demands the girl was administered calmpose tablets and thenceforth she even cut the arteries of each her hands. Sometimes, gift might

⁴ 1989 SCC(Cr) 105; 1989 (1) SCC 244; 1989 AIR(SC) 378; 1989 (1) Crimes 173; 1989 (95) CRLJ 809

⁵ (2000) DMC 628

not be the cause however the girl for many reasons like her complexion or family standing is tortured to death.

In the case of *Surajmal Banthia & Anr. v. State of West Bengal*⁶, the deceased was slapped and tortured for many days and even not given food many times. Her father- relative-in-law additionally misbehaved along with her very often. this can be the treatment that many young brides face once they move out of their parents' home and into the house of her in-laws'. it's the duty of the court to stop any of those abusers from escaping. The increasing rate of bride burning for wish of a lot of gift and brutal torture of young wives, at the side of a transparent escape of the offender may be a clear indication that the court has not taken any robust measures for the implementation of S. 498A IPC properly. As explicit earlier many times this victim turns into the offender and is clearly not wronged however instead wrongs the husband and his family for no fault of theirs. many cases show that the better half takes advantage of the section and sends the respondents to jail below the compass of this section.

Many women rights' teams justify the abuse of this section as being a typical feature with all other laws which additionally the quantitative relation of false cases to it of true ones as being terribly low. however this still doesn't amendment the reality that there's slowly an increase within the abuse of S.498A IPC. In several judgments, the court has not thought-about mental cruelty caused to the girl however has concentrated solely on any sign of physical cruelty. If proof doesn't show that the girl was physically troubled, then the court doesn't investigate the case. What the court will is decision the woman hypersensitive or of low tolerance level and having an unstable mind. Also S.498A IPC doesn't solely upset gift deaths however additionally any willful conduct on a part of the husband that causes damage to the wife's ' life, limb or health (whether mental or physical).' To prove that cruelty was caused below rationalization a) of S.498A IPC it's not necessary to indicate or place forth that the girl was crushed up- abusing her verbally, denying her legal right or maybe not chatting with her properly would represent the compass of mental cruelty. Showing any mercy to abusers or giving them the 'benefit of doubt' once some proof to torture at their hands is gift is totally wrong. Like within the case of *Ashok Batra & Ors v State*[14] even tho' letters of the deceased stating that harassment had taken place was gift, not treating them as robust proof and giving the appellants a good thing about doubt while not ordering for an extra investigation into the matter is wrong.

The judges have in many instances created a awfully slim interpretation of this section, considering it to be solely cruelty in regard to unlawful demands or gift demands. in a very explicit case, the court visited the extent of stating that 'merely as a result of her in-laws or husband were to remonstrate the girl for improper or immoral conduct, it doesn't essentially quantity to cruelty.' This act

⁶ (2003) DMC 546 (DB)

of chastising the girl clearly amounts to mental cruelty, one thing that the court apparently didn't notice. Here, considering girl|the lady|the girl} to be a hyper-sensitive woman not accustomed usual wear and tear of social life is totally incorrect.

In the case of *Bomma Ilaiiah v State of AP*⁷ the husband of the litigator tortured the girl physically by forcing his partner to possess sexuality with him. He inserted his fingers and a stick in her duct, inflicting severe pains and injury however the court found the husband of this Woman guilty solely below S. 325 IPC and not S, 498A IPC. Her life each physically and Mentally was in danger. The court has in another case not chastened the guilty below S.498A IPC even if medical Reports clearly showed that the death was cutthroat by strangling. This was just because According to the court, even if there have been gift demands within the past, the court felt that Proximity of the death to be caused thanks to such a requirement was unlikely. World Health Organization decides this Proximity. The cause and its result on the woman's health or life is also profound and even cause her mental unrest at a later stage. While on the readily available, women's freeing is that the want of the hour and hindrance of ever increasing gift deaths and harassment must be stopped, it's additionally clearly noticed that girls nowadays area unit still tortured and infrequently the court, being the last word savior additionally doesn't come back to the rescue to shield these ladies.

Misuse of this Section in Modern World

A violation of this section, its goals and its aims is on the increase with the lady frivolously creating false allegations against their husbands with the aim of obtaining eliminate them or just pain the family. The abuse of this section is chop-chop increasing and therefore the ladies usually well- educated apprehend that this section is each cognoscible and non-bailable and impromptu works on the grievance of the lady and putting the person behind bars. Like within the case of *Savitri Devi v Ramesh Chand & Ors*⁸, the court control clearly that there was a misuse associated exploitation of the provisions to such an extent that it absolutely was touching at the inspiration of marriage itself and established to be not therefore smart for health of society at giant. The court believed that authorities and lawmakers had to review the case and legal provisions to stop such from taking place.

This section was created keeping in mind protection of the married person from unscrupulous husbands however is clearly misused by few ladies and once more this can be strictly condemned in *Saritha v R. Ramachandran*⁹ where the court did notice that the reverse trend and asked the law Commission and Parliament to create the offence a non-cognizable and bailable one. it's been a

⁷(2003) DMC 287

⁸ (2003) DMC 328

⁹ (2003) DMC 37 (DB)

requirement of the court to condemn wrongdoings and shield the victim however what happens once the victim turns into the abuser. What remedy will the husband have here. On this ground, the lady gets to divorce her husband and remarry or perhaps gain cash within the form of compensation.

Many women rights' teams go against the thought of constructing the offence a non-cognizable and bailable one thinking that this offers the suspect an opportunity to flee conviction. however what this might do is that it'd provides a chance to the person and especially facilitate meet the ends of justice. Justice should shield the weaker and make sure that the wronged is given an opportunity to say back his/her due. When ladies accuse their husbands below S.498A IPC by creating the offence non-bailable and cognizable , if the person is innocent he doesn't get an opportunity quickly to urge justice and 'justice' delayed is justice denied'. Therefore, the lawmakers should recommend how of constructing this section non-biased to somebody specified the guilty is punished and therefore the person wronged is given justice. The position of the ladies in Bharat continues to be dangerous. They still want rights to alleviate themselves in society however many an times fail to note others' rights as long as their rights area unit ensured. The educated lady of these days should believe the mantra of equality and demand constant however the trend is slowly obtaining reversed. ladies area unit taking due advantage of the actual fact that remarked because the 'weaker sex' and on the inspiration of rights ensured to them are violating others' rights.

5. Suggestion

Role of Women NGOs

These organizations ought to investigate criticism properly with none bias towards the girl keeping in mind that the law is being put-upon for the most part to harass additional girls in husband's family. they must not encourage any girl to file a criminal case against her in-laws for trivial matters. Foreign girls Organizations ought to additionally take responsibility of not permitting false criticism to be registered against NRI's simply to harass and extort vast quantity of cash from them. These organizations ought to additionally conduct survey/research on the misuse of the act and may educate folks regarding its consequences. If these organizations square measure found to be helping in filing false complaints, then they must be created answerable for prosecution within the country wherever they're functioning.

Family Counselling Centres

Numerous cases of men being harried by spouse or/and in-laws have return to light-weight from totally different elements of the country. As of currently there's no organization, which may extremely facilitate these harried men and his members of the family, to pay attention their aspect of the story and place their purpose of read ahead of the govt.. want of the hour is to make family substance centers across the country to assist those aggrieved families.

Time Bound Investigation and Trial

A speedy trial of 498A cases won't solely guarantee justice for the innocents that are concerned in false charges, it'll conjointly result in prompt redressal of the grievances of real gift victims .The reduction in false cases also will scale back the burden on judiciary and expedite the process of real cases.

Definition of Mental Cruelty

Mental cruelty has been mistily outlined within the act, that leaves scope of misuse. this could be clearly detailed to get rid of loopholes within the law. There ought to be provision for men additionally to file a case for mental cruelty by his mate.

Investigation by Civil authorities

The investigation into these offences be distributed by civil authorities and solely when his/her finding on the commission of the offence, cognizance ought to be taken. The govt ought to produce awareness among officers concerning its misuse

Bailable

The main reason of 498a being victimised to harass innocent is its non-bailable nature. This section ought to be created bailable to stop innocent recent folks, pregnant sisters, and college going youngsters from languishing in custody for weeks with none fault of them.

Compoundable

Once FIR has been registered it becomes not possible to withdraw the case though married woman realizes that she has done miscalculation and needs to come back back to her marital status home. to save lots of establishment of wedding this could be created compoundable. Moreover, within the state of affairs wherever the couple decides to finish the wedding by mutual divorce, continuation of criminal proceedings hamper their life.

Arrest Warrants

Arrest warrant ought to be issued solely against the most suspect and solely when cognizance has been taken. Husband members of the family shouldn't be in remission.

Penalty for Making False Accusation

Whenever any court involves the conclusion that the allegations created relating to commission of offence below section 498a IPC ar unfound, tight action ought to be taken against persons creating the allegations. this is able to discourage persons from returning to courts with unclean hands and ulterior motives. Criminal charges ought to be brought against all authorities that ar collaborating with incorrectly inculpatory girls and their parental families.

Court Proceedings

Physical look of the suspect on hearing ought to be waved or unbroken law to avoid hassles in showing to the court, particularly for NRIs. The court mustn't raise to surrender passport of the husband and his family that may value job of the husband and his members of the family.

Registration of Marriage and Gifts Exchanged

The registration of weddings ought to be created obligatory together with the necessity that the couple build a joint declaration relating to the gifts exchanged throughout marriage.

Punish Dowry Givers

If the plaintiff admits giving gift within the criticism, the courts ought to take cognizance of constant and initiate proceedings against them below the relevant sections of the gift Prohibition Act

Penalize corrupt Investigation Officers

If it's apparent to the court that a good investigation has not been conducted by the investigation officer, which the husband and his family are charge-sheeted while not correct verification of the criticism, the investigation officer ought to be punished for gross negligence of duty

Gender Neutral

Everybody ought to have equal rights and responsibilities, regardless of gender. within the current social context, there ought to be similar laws to guard married husband Associate in Nursing his members of the family from an unscrupulous married person.

6. Conclusion

This Section solely provides for the remedy to lady solely and recently it's being employed as a by the lady. it's a extremely debatable issue recently, if this downside isn't resolved by legislation it's going to become a affliction for the society. People's trust over the judiciary can return to associate finish. thus it's time that this Section be amended and a few changes like mentioned higher than ought to be remarked during this law.

Dowry was a custom that was started in associate degree ancient amount. It has followed since past. Afterwards, the follow of dowry has stopped by enacted law by the central government in India. it's started making downside in daughter's marriage life. therefore the law was created to guard ladies from their marital status house as there was associate degree absence of knowledge in ladies and thanks to sick literate the ladies were just suffers the pains from their marital status house. Section 498A and dowry prohibition act was there to assist and safeguard ladies. later on women were started learning and they additionally educated. They knew the laws and learn that the way to use that laws against

their men for permanent support payment and maintenance.

The women`s were framing a false charge below sec 498A IPC and create her husband ought to be penalized under the law. the boys haven't any laws to guard him against the exploitation from ladies. in a very cases of district court additionally seen that there's a misuse of section 498A IPC. The cases were still unfinished and also the husbands square measure paying maintenance to their partner simply because he's husband doesn`t mean that he is to blame for all the expenses and gains. the ladies have become a scammer as comparison to men in society. They use this section as a weapon to realize some cash from it. Sec 498A is abused by partner to their husband it's verified. so I conclude, its reality. Section 498A IPC is misuse by the women to husbands and in-laws. it's completed and already done with the results. it's reviewed that Sec-498A offers harassment to men within the society folks were agree and it's to be amendment. it had been seen that this section was keen on men. it's correct that section 498A protect ladies however currently it's misuse by partner to their husband and in-laws. this example gets terribly unhealthy impact to the society. Misuse of Section 498A IPC isn't a rumor it's proved.

References

- [1] P. S. A. Pillai, Criminal Law , 13th Edition
- [2] Ratanlal & Dhirajlal , the Indian Penal Code , 35th Edition
- [3] “Are Indian Women Misusing Section 498A? | Free Press Journal.” 2015. Free Press Journal. April 19, 2015. <http://www.freepressjournal.in/weekend/are-indian-women-misusing-section-498a/568637>.
- [4] “Attempt at Dilution of Section 498 A IPC -A Step in Regression | Lawyers Update.” n.d. Accessed June 1, 2018. <https://www.web.lawyersupdate.co.in/legal-articles/attempt-at-dilution-of-section-498-a-ipc-a-step-in-regression/>.
- [5] “Fallacies of a Supreme Court Judgment.” 2015. *Economic and Political Weekly* 49 (52): 7–8.
- [6] LegalSalah. 2016. “‘Section 498A of Indian Penal Code Has Led Whole Society in a Dilemma Regarding the Concept of Marriage’ - LEGAL SALAH BLOG.” LEGAL SALAH BLOG. September 21, 2016. <https://www.legalsalah.com/blog/section-498a-of-indian-penal-code-has-led-whole-society-in-a-dilemma-regarding-the-concept-of-marriage/>.
- [7] Mahapatra, Dhananjay. 2014. “False Cruelty Cases under Section 498A Ruining Marriages, SC Says - Times of India.” The Times of India. December 9, 2014. <https://timesofindia.indiatimes.com/india/False-cruelty-cases-under-Section-498A-ruining-marriages-SC->

says/articleshow/45424532.cms.

- [8] Nair, Shalini. 2017. "498A, Battered." The Indian Express. August 13, 2017. <http://indianexpress.com/article/india/498a-battered-supreme-court-misuse-of-dowry-law-women-harassment-cruelty-sneha-sharma-allahabad-hc-4794220/>.
- [9] "[No Title]." n.d. Accessed June 1, 2018a. <http://www.managejournal.com/up/conference/20170210154311.pdf>.
- [10] . n.d. Accessed June 1, 2018b. <http://bvpnlcpune.org/Article/Misuse%20of%20Section%20498-A%20IPC%20and%20Dowry%20Prohibition%20Act%20Vis-%C3%A0-vis.pdf>.
- [11] Patil, Vijaykumar. n.d. "Meera Saxena: There Is No Need to Amend Section 498A of IPC." The Hindu. Accessed June 1, 2018. <http://www.thehindu.com/news/national/karnataka/meera-saxena-there-is-no-need-to-amend-section-498a-of-ipc/article8425082.ece>.
- [12] "PIJR - Paripex - Indian Journal Of Research - Misuse of Section 498A IPC–Judicial Trend." n.d. Accessed June 1, 2018. https://www.worldwidejournals.com/paripex/file.php?val=September_2015_1492178619__81.pdf.
- [13] "SC's New Directives on 498A Could Make Women More Vulnerable to Domestic Violence, Say Experts." 2017. The News Minute. July 28, 2017. <https://www.thenewsminute.com/article/sc-s-new-directives-498a-could-make-women-more-vulnerable-domestic-violence-say-experts>.
- [14] "Sec 498A of the Indian Penal Code a Weapon in the Hands of Vamps." n.d. Lawyersclubindia. Accessed June 1, 2018. <http://www.lawyersclubindia.com/articles/Sec-498A-of-the-Indian-Penal-Code-a-weapon-in-the-hands-of-vamps-585.asp>.
- [15] "Section 498A, Dowry: Most FIRs, Least Convictions." 2017. Legal Desire. December 6, 2017. <http://legaldesire.com/section-498a-dowry-firs-least-convictions/>.
- [16] "Section 498A of IPC, Cruelty." 2017. Law Times Journal. April 30, 2017. <http://lawtimesjournal.in/section-498a-indian-penal-code/>.
- [17] "Section 498A- THE FINEST SWORD." n.d. Accessed June 1, 2018. <http://www.theindiasaga.com/opinion/section-498a-the-finest-sword>.

- [18] “The Dangerous, False Myth That Women Routinely Misuse Domestic Cruelty Laws - The Wire.” 2017. The Wire. August 11, 2017. <https://thewire.in/featured/section-498a-domestic-cruelty-laws>.
- [19] “Use and Abuse of Section 498 A of Indian Penal Code - Legal News / Law News & Articles - Free Legal Helpline - Legal Tips : Legal India.” 2016. Legal News / Law News & Articles - Free Legal Helpline - Legal Tips : Legal India. August 2, 2016. <https://www.legalindia.com/use-abuse-section-498-indian-penal-code/>.
- [20] Venu, Sneha, and Rakesh Dubbudu. 2017. “Conviction Rate of Sec 498-A Cases Is among the Lowest of All IPC Crimes.” FACTLY. July 29, 2017. <https://factly.in/conviction-rate-for-cases-registered-under-sec-498a-ipc-is-among-the-lowest-for-all-ipc-crimes/>.
- [21] “Website.” n.d. Accessed June 1, 2018a. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. Read more at: <https://www.oneindia.com/feature/what-is-section-498-a-how-it-is-misused-explained-1981686.html>.
- [22] . n.d. Accessed June 1, 2018b. <https://www.linkedin.com/pulse/rising-misuse-section-498a-indian-penal-code-supreme-court-varma>.

