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MISUSE OF SECTION 498-A OF THE INDIAN PENAL CODE

ABSTRACT:

Conflicts occur in every family, fights are a part of life but misusing laws to harass the family members, is the easiest way to destroy the family culture and relations. A few decades ago, the situation of women in society used to be sympathetic; Goddesses used to be worshipped in every household but respect for women of their own family was a concept that was unpracticed. Laws were reformed, views changed and society moved on from that culture. To shield women from the cruelty of husbands and in-laws regarding the demand for dowry, the Parliament of India passed an amendment in 1983 that provided extra powers to married women to raise their voices against Cruelty. The Parliament, however, failed to mention the outcome if the law gets misused. This loophole in the provision creates a ruckus even now, as some of the married women have made it a weapon to threaten their in-laws and husbands. As soon as a complaint is filed under Section 498-A, society starts looking at the accused as a demon. The Supreme Court and the High Courts observed in some cases that married women make false claims, and therefore the Courts have suggested the Parliament to bring laws to make sure that innocents do not suffer. However, to date, the government has not made any change in the laws, and the innocents have nothing to refer to, just to expect Courts to deliver justice. In the Paper below, we will see some cases where the Supreme Court has taken tough stands and the issues that still revolve around the law.

Keywords: Cruelty, Section 498-A, Indian Penal Code, Dowry, Misuse

INTRODUCTION:

Collaboration between two individuals needs respect, empathy, and solidarity, to sustain. In a situation where individuals lack such necessities, there remains nothing but a vacuum that creates a ruckus. The same applies to couples as well. Nearly eight decades ago, the fundamental cultural society would not have thought that even an unbreakable bond like marriage could be governed by law across all religions. Starting from the background, the first-ever Divorce law that was made in India was for Christians¹. Then, for Parsis², Muslims³, and Hindus⁴, respectively. For Inter-caste or Inter-religion marriages, a new divorce law came into effect in 1954⁵. If we see the series of events concerning the Grounds of Divorce in India, loopholes can easily be traced. Across all the religions, a lack of equality towards women was common. Some Indian married women used to face the harsh side of the patriarchy in their in-law's houses. Dowry was a big reason for that, but several other factors were also there. The Indian Parliament noticed the issue and inserted Chapter XX-A in 1983⁶ to have an absolute law for the safety of women from facing Cruelty after their marriage. Before that, the Indian government had already implemented the Dowry Prohibition Act back in 1961⁷. 'Blessing in disguise', can be used as a term to define the situation of married women

¹ The Indian Divorce Act, 1869

² The Parsi Marriage and Divorce Act, 1936

³ The Dissolution of Muslim Marriages Act, 1939

⁴ The Hindu Marriage Act, 1955

⁵ The Special Marriage Act, 1954

⁶ Act 46 of 1983

⁷ The Dowry Prohibition Act, 1961

after this law was enacted. Section 498-A⁸ included the right of women to safeguard themselves from misbehavior by their husbands or relatives of their husbands. If a husband or his relatives tortures his wife to an extent that is not less than Cruelty, then the Section can be imposed on them with imprisonment of not more than three years and a fine. Sub-clauses of Section 498-A cover the broad meaning of the term 'Cruelty' that includes acts that can lead a woman to commit suicide, or grave injury to her life, and harassment for expecting property⁹.

Every coin has two sides to it. On one side where married women got a legitimate voice to raise their concerns through this, however, few saw it as a weapon to threaten in-laws and husbands. Numerous cases occurred where a wife made a false complaint against her husband and his relatives, accusing them of Dowry's demands before or after the marriage. Looking at records of men treating their wives brutally creates a general misconception that a woman can not be wrong if she files a case accusing her husband or his relatives. However, several instances were seen where a wife makes a claim but she completely fails to prove her side of the story; all such cases somewhere changed the perception of Courts and the public about the cases filed by women. One common link that was found in the majority of such cases was Section 498-A of the Indian Penal Code. The number of false cases extended to an extent that the High Court of Calcutta called it "Legal Terrorism"¹⁰.

The law was brought with a bonafide intention, however, it is being used in a malafide way. When a married woman, for any reason, puts a false case on her husband or his relatives, it breaks the concept of family. It has become a weapon that is being used by women to blackmail their in-laws and make them do whatever they want. Again, this does not apply to every married woman in India, but certainly to those who have sold their soul for money or luxury. Countless married

⁸ The Indian Penal Code of 1860, Section 498-A

⁹ The Indian Penal Code of 1860, Section 498-A (a)(b)

¹⁰ BS Web Team, "Legal Terrorism: Calcutta HC calls out women for filing fake cases", The Business Standard (August 22, 2023) – https://www.business-standard.com/india-news/legal-terrorism-calcutta-hc-calls-out-women-for-filing-fake-cases-123082200819_1.html (last accessed April 07, 2024)

women in India are being treated miserably and the law is certainly for them as they are the real victims, but women of pathetic nature misuse it and their evil acts can bring serious problems for real victims.

Cruelty, Harassment, Grave injury, Danger to life, Demand for Property, and pressurizing so much that a woman has nothing left but to attempt suicide, are the major components that are mentioned in Section 498-A of the Indian Penal Code. No just material damage, but there have been instances where the Court considered that calling wife as ugly, is also a kind of Cruelty¹¹. Therefore, the scope of the word 'Cruelty' is too wide.

REVIEW OF LITERATURE:

Research done by A.Hanshika and M.Kannappan, 'A Critical Study of Misuse of Section 498A of Indian Penal Code, 1860'¹² (2018), suggests that in a case where the allegations fall flat and the accused are held non-liaible of the crime, the persons who made the allegations must face criminal charges and the authorities who are involved in the action by manipulating the married woman or her relatives to make false allegations, must also face similar charges so that such people can not misuse the law anymore. Another research written by Gaurav Kumar, 'A Study on Misuse of Section 498A of Indian Penal Code, 1860'¹³ (2019), suggests that Family counseling is much needed in our country so that individuals living in grief get some expert help to come out of the issue. Apart from that, serious charges must be framed against the corrupt Police officers who unlawfully collaborate with the person making allegations and then they harass innocent family members. Research by Bhupinder and Dr. Naveen Nandal, '498A IPC - A Shield to Protect Women or a Weapon to Harass Men'¹⁴ (2020) demands changes that there needs to be an inclusion of

¹¹ Pawan Kumar v. State of Haryana AIR 1998 SC 958

¹² A. Hanshika & M. Kannappan, A Critical Study of Misuse of Section 498A of Indian Penal Code, 1860, Volume 119 No.17, IJPAM 1154-1156 (2018)

¹³ Gourav Kumar, A Study on Misuse of Section 498A of Indian Penal Code, 1860, Volume 2 Issue 3, IJLMH 6-7 (2019)

¹⁴ Bhupinder & Dr. Naveen Nandal, '498A IPC – A Shield to Protect Women or a Weapon to

flexibility in the current law, just for the benefit of the innocents. Also, compensation must be given to the acquitted person.

RESEARCH METHODOLOGY:

A combination of both Qualitative and Quantitative nature is used in the research here. The secondary data is used in the research paper to support the views and other research papers are also cited and looked upon while writing this research paper. The credit for those researches completely goes to the actual researchers who are cited.

RESEARCH OBJECTIVES:

- To get a clear idea of the Section 498-A
- To get an equal viewpoint for both genders without discrimination
- To know the loop-holes in the law that create issues for men
- To understand how the law will impact women's status in the society
- To state some needful changes to ensure justice.

RESEARCH QUESTIONS:

1. Whether the norms of Section 498-A should be changed, or not?
2. Whether the government should form a new organization like the 'National Commission for Men' to give a platform and voice to men, or not?
3. Whether the false accuser should get hefty punishment for her actions, or not?

ANALYSIS:

The Indian laws, the way they are written are very complex and because of that, timely

interpretation is also being done so that the laws keep on getting updated and fit in the society as it evolves. Similar to this, Section 498-A of the Indian Penal Code has also been interpreted by the Courts and certain changes have also been recommended by different courts at different times. Moreover, the Courts have expanded the meaning of 'Cruelty' concerning the mentioned Section. This has been done as Cruelty is the main criterion for imposing Section 498-A. While delivering different judgments, the Courts have led down the provision under which an accuser can use the word 'Cruelty' during arguments. To analyze the law and the misuse that is being done, we must understand what the law means. "The law was made to protect a wife from her husband and his relatives from being subjected to cruelty by the husband or his relatives¹⁵." The law provides an imprisonment of three years with a fine.

The law is certainly not gender-neutral. By this, we understand that a husband or his relatives shall be held liable if they torture his wife but a wife shall not be convicted if she tortures her husband or her in-laws. Discrimination is one of the major criticisms that the law gets. With the law being such partial, women have an edge over their husbands in the eyes of the law. Certain changes are needed so that even husbands can claim their rights if they are mistreated in the marriage.

Talking about the loopholes in the mentioned law, it has not been stated clearly through any interpretation, the rightful procedure through which the investigation should take place. More often, due to the lack of evidence, the accuser or the accused gets to face some harsh implications that are not needed. And surely, there is no provision mentioned in any law about how the person should be treated if the court gets to know that the accusations were false. There have many several instances where the wife has made false accusations about her husband or her in-laws just to harass her, having a mala-fide intention.

If the trend of false cases keeps on going like this, in the future, not anyone else, but the women will be standing on the receiving end of negative effects. Even the Supreme Court has started observing the misuse of Section 498-A by married women and their families. The law was made

¹⁵ Tejaswi Pandit, 'Cruelty to Women [Sec. 498-A IPC and allied Sections], SCC Online, (December 03, 2018) <https://www.scconline.com/blog/post/2018/12/03/law-for-laymen-section-498-a-ipc-and-allied-sections-cruelty-to-women/> (last accessed April 07, 2024)

to protect the victim women but largely it is being used to fulfill the egos of women so that their demands get fulfilled in her in-law's house. We shall see how the misuse of the law will impact women in the future.

To get a better understanding of what laws were meant to be used and how it is being used in certain cases, we must see some judgments by the Courts. As mentioned earlier as well, the law is not just against the husband, it can be filed against relatives of husbands as well. In the case of *Bibi Parwana Khatoon & Ors. vs State of Bihar*¹⁶, the family of the deceased wife complained against the sister-in-law and brother-in-law, accusing them of getting involved in torturing the victim for dowry. The Court held that the accusations were not proved beyond reasonable doubt. Both the appellants used to stay in different villages and there was no solid proof that they could have tortured the deceased woman.

In the case of *Preeti Gupta & Anr. vs State of Jharkhand*¹⁷, the allegations were made against the close relatives of the husband, however, the learned Court noticed that the accused were living in different cities and rarely visited the place so to accuse them of torturing for dowry can not be proved legitimately.

Apart from the cases that were somewhere not dictated with harsh comments, there have been instances where the Courts have gone heavily against the accusers and also ordered changes in the law and the procedure through which the investigation continues.

In the case of *Arnesh Kumar vs State of Bihar*¹⁸, "the Supreme Court observed that the proper investigations are not followed sometimes and due to which Justice remains at stake. It also held that sometimes the women go to an extent where they drag the bedridden parents of their husbands and they do not even spare the relatives who live abroad. Since the law is a non-bailable and cognizable offense, often women use it to harass their husband and their relatives and use the law as a weapon. Looking at the way Magistrates order in these kinds of cases, the Apex Court dictated

¹⁶ *Bibi Parwana Khatoon & Ors. vs State of Bihar*, AIR 2017 SC 2386

¹⁷ *Preeti Gupta & Anr. vs State of Jharkhand & Anr.* 2010 CRI. L. J. 4303,

¹⁸ *Arnesh Kumar vs State of Bihar & Anr.* AIR 2014 SUPREME COURT 2756

that the detention shall not be ordered casually."

In the case of *Saritha vs R. Ramachandran*¹⁹, the Supreme Court finally gave a verdict that "ordered the Law Commission to review the law and bring suitable changes and had also told the Parliament to make the law bailable and non-cognizable offense so that justice is served to both the guilty and the injured." Similarly, the Court had also observed in the case of *Savitri Devi vs Ramesh Chand & Ors.*²⁰ that "the Legislators needed to examine the situation and bring required changes so that the misuse does not threaten the institution of marriage as it did in the given case, it held that the misuse is ultimately bad for society as a whole."

An important petition was filed in the Supreme Court in the case of *Sushil Kumar Sharma vs Union of India & Ors.*²¹, where it was claimed that "the provision of Section 498-A is unconstitutional and ultra-vires. The court did not find any merit, however, it agreed on the point that the provision is being misused in many aspects and the lawmakers need to review it and should come up with steps that stop the misuse and also make provision for the punishment of the people who file baseless complaints. But until the changes are not made, the Courts need to act within the current framework".

The Supreme Court had observed that "the filing of false dowry cases ruins marriage and there have been circumstances where the old parents of the husband, despite doing nothing, are taken to jail, which creates havoc in the marriage. Some women often try to harass their husbands but end up destroying relations. Because of the problems faced by parents due to the false claims of the wife, the husband refuses to take back his wife, and they become ready to give property but by no means, accept the relation with the wife again."²²

¹⁹ *Saritha vs R. Ramchandra* 2002(6) ALD319

²⁰ *Savitri Devi vs Ramesh Chand & Ors.* 2003CRILJ2759

²¹ *Sushil Kumar Sharma vs Union of India & Ors.* AIR 2005 SUPREME COURT 3100

²² *Dhananjay Mahapatra, False Cruelty Cases under Section 498A ruining marriages, SC says, The Times of India, (March 22, 2015)* <https://timesofindia.indiatimes.com/india/false-cruelty-cases-under-section-498a-ruining-marriages-sc-says/articleshow/45424532.cms> (last accessed April 07,

The Business Standard reported in a case that observing so many cases of the same intentions, "the Court held that the Section 498-A became a Legal terrorism. In a household where the parents of the husband lived separately from the couple, the wife made allegations just to fulfill personal grudges as the allegations were not supported by any medical evidence of cruelty."²³

After so much of orders from the Supreme Court, "the government in 2015 planned to amend the Anti-Dowry harassment law suggested by the Malimath Committee. Before that, the Supreme Court had said that the law had become a weapon in the hands of disgruntled women and had also mentioned how the exaggerated versions of the incidents were reflected in a large number of complaints."²⁴

We have to understand that if the misuse keeps on happening similarly, it would rather become an issue for women rather than just for men. The data shows how the acquittal percentage is far more than the conviction rate²⁵. This will lead to less empathy towards women in the society. The real victims married women may suffer far more in the future than they used to before. The rise in false cases is a partial issue for men but a permanent issue for women.

RECOMMENDATION:

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²³ B.S Web Team, "Legal Terrorism: Calcutta HC calls out women for filing fake cases", The Business Standard (August 22, 2023) – https://www.business-standard.com/india-news/legal-terrorism-calcutta-hc-calls-out-women-for-filing-fake-cases-123082200819_1.html (last accessed April 07, 2024)

²⁴ PTI, Government Plans to amend Anti-dowry Harassment Law, The Economic Times, (March 15, 2015) – <https://m.economictimes.com/news/politics-and-nation/government-plans-to-amend-anti-dowry-harassment-law/articleshow/46571163.cms> (last accessed April 07, 2024)

²⁵ Deepika Narayan Bhardwaj, NCRB Report 2020| Crimes against women| Cases registered v/s False; Conviction v/s Acquittal, The Voice for Men (September 30, 2021) <https://voiceformenindia.com/> (last accessed April 07, 2024)

In continuity with the Research Questions that have been raised and also focusing on the Analysis of the Paper, some recommendations are needed so that there is a subtle way to Conclude the paper, later on.

Through the Analysis of Section 498-A, we have come to know the law is being misused and there have been moments where the Supreme Court has suggested some changes in the law. It has been mentioned that even the Government of India had tried to bring changes to the law, but any major steps have still not been taken.

As we move towards the climax of the paper, some changes need to be recommended so that the misuse stops and everybody gets fair justice without discriminating against anyone on any criteria or gender.

One of the first recommendations is to make Section 498-A, a bailable offense. As we have seen in the rise in misuse, some families have to go through false accusations, with no fault, they get imprisoned for a long time till the Justice is served. Therefore, the norm should be changed so that innocents do not get to suffer.

Secondly, Similar to the National Commission for Women (NCW), the Indian Government needs to appoint a National Commission for Men as well. "A petition was filed in the Supreme Court last year, in which the petitioners had provided the data which reflected the number of married men commit suicide due to either family problems or marriage-related issues. In the year 2021, 1,18,979 men committed suicide which was about 72% of the total suicides in the country. The Supreme Court, however, refused to entertain the plea.²⁶" Appointment of a National Commission for Men would be a great step that would ensure that Men also have a platform to raise their concerns and stand in front of the government to ask for necessary changes.

The third recommendation is to ensure speedy trials of the cases filed under Section 498-A. If the

²⁶ Prachi Bhardwaj, 'A National Commission for Men? Supreme Court refuses to entertain plea', SCC Online (July 04, 2023) – <https://www.scconline.com/blog/post/2023/07/04/national-commission-for-men-sc-refuses-to-entertain-plea-domestic-violence-legal-news/> (last accessed April 07, 2024)

courts ensure that the judgment gets delivered within a month, then the innocents will not have to face harassment for long.

The last recommendation would be to ensure a hefty punishment for the woman or her family if they try to misuse the law and falsely accuse the husband or his relatives just to give a boost to their ego. The husband can file a defamation suit against his wife under Section 500 of the Indian Penal Code²⁷; the husband can also apply to Section 182 of the Indian Penal Code²⁸ which states punishment on the ground of misleading the public servants with false information, but there needs to be a dedicated section for the punishment for the false accusers.

If the Parliament makes a law that dictates harsh punishments for such people, automatically the number of false cases will go down. False cases are on the rise because there is no fear in the eyes of people, a strong punishment shall create that.

CONCLUSION:

We conclude the paper by mentioning that it is known to the world, that women have been mistreated in society for a long time but since the laws have been reformed, society has evolved and also the mindset is changed. Society has majorly accepted that both men and women make each other complete and therefore, discrimination must not prevail. Since the changes took time to happen, the government came up with a law in 1983 that gave powers to women to shield themselves from the cruelty of husbands and in-laws. The law was formed so that married women are not mishandled, however, some married women saw it as an opportunity to harass their husbands and in-laws to extract money and create fear in their eyes so that no one can interfere in the choices they make, regardless of how non-societal values they hold. Many innocent lives are being destroyed due to the misuse of Section 498-A of the IPC. False accusations of in-laws, disrupt the harmony within a family, and the bitterness never fades away among the people who have faced the harshness of the law, despite doing nothing. In the analysis of the Paper, we have seen several cases, where the married women misuse the law to satisfy her ego. Despite so many

²⁷ The Indian Penal Code 1860, Section 500

²⁸ The Indian Penal Code 1869, Section 182

instructions from the Supreme Court itself, the government of India has still not brought any amendment to the law so that the innocents do not have to go through unnecessary imprisonment and harassment by the law. In the end, society needs to look beyond genders and see everyone as a human and should know that if somebody else is facing false accusations then someday, we also may have to suffer. Therefore, a change is needed for the betterment.