Misuse of Section 498A IPC and the Quest for Procedural Fairness: A Constitutional and Judicial Analysis with Evidence from NCRB Data

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ABSTRACT

The Criminal Law (Second Amendment) Act, 1983 enacted Section 498A of the Indian Penal Code, 1860 to curb the rising incidence of cruelty, dowry harassment and domestic violence against married women.[1] This provision has in fact played an important role in enhancing legal protection of victims, yet concerns of its misuse have increasingly dominated judicial discourse. There have been allegations of false or exaggerated complaints, implicating distant relatives, and using criminal proceedings as a means of coercion, which have raised important questions concerning procedural fairness, and the balance between victim protection and the rights of the accused. This study analyses the legislative intent, judicial interpretation and contemporary application of Section 498A in the larger framework of the Constitution to understand the evolution. It fills a research gap in the existing literature which has studied the protective intent of the provision or the allegations of misuse, with little attention paid to integrating constitutional principles and the recent developments in law under the Bharatiya Nyaya Sanhita, 2023. The study is based on doctrinal research methodology, with empirical analysis of the data available in public domain. The study analyses the Supreme Court's jurisprudence, reports of the Law Commission, statistics of NCRB and other credible secondary sources. The study ends with the contention that the continuing issue is not whether Section 498A should be retained, but how it should operate in a system that adequately shields actual victims and at the same time stops misuse of the criminal process.

Keywords: Section 498A IPC; Criminal justice reform; Due process; False implication; Dowry Harassment; Misuse of criminal law.

[1] Criminal Law (Second Amendment) Act, No. 46 of 1983, § 2, INDIA CODE (1983).

I. INTRODUCTION

Marriage is a significant social institution in Indian society and has been traditionally considered a social, cultural and legal relationship rooted in mutual trust and dignity. Nevertheless, the rise in cruelty against married women has led to increased pressure for greater legal intervention in the latter half of the 20th Century. In response to the increasing number of dowry deaths and harassment in marriage, Section 498A was inserted in the Indian Penal Code by the Criminal Law (Second Amendment) Act, 1983. This provision criminalised the cruelty inflicted on a married woman by her husband or his relatives and aimed at providing a strong legal mechanism to protect women from abuse in the matrimonial home.[2]

At the time of its enactment, Section 498A was seen as a progressive step to address a serious social issue. The offence was made cognisable and non-bailable to enable early intervention by law enforcement authorities and to prevent acts of cruelty which often remained hidden in private domestic spaces. Over the years the provision has proved instrumental in providing legal protection to women subjected to physical violence, mental harassment and dowry-related abuse. However, implementation of Section 498A has been surrounded with considerable controversy despite its laudable objectives.[3]

The misuse of the provision through false or exaggerated allegations, indiscriminate arrest and implication of multiple members of the husband's family including elderly parents, distant relatives and individuals residing separately from matrimonial household has increasingly raised concern among courts, legal scholars and policy makers. The Supreme Court of India has repeatedly acknowledged that the provision can be misused but has also emphasised the continuing need for the provision to protect genuine victims of domestic cruelty.[4]

These developments are indicative of a broader constitutional commitment to fairness, due process, and protection against abuse of the criminal law. At the same time,

[2] Indian Penal Code, 1860, No. 45 of 1860, § 498A, India Code (1860).
[3] Id
[4] *Sushil Kumar Sharma v. Union of India,* (2005) 6 SCC 281 (India); *Preeti Gupta v. State of Jharkhand,* (2010) 7 SCC 667 (India).

statistical data on arrests, acquittals, conviction rates, and trends in suicide have rekindled debates about the efficacy and justice of the current legal system.[5]

In this context, the present study provides a comprehensive study of Section 498A, tracing its evolution over time, analysing judicial responses to allegations of misuse, evaluating empirical data of its operation and its position under the Bharatiya Nyaya Sanhita. The study attempts to find out whether the protection of women against the vice of cruelty is well balanced with the constitutional injunction of procedural fairness and protection against abuse of criminal process within the existing legal framework.

II. Literature Review

Existing scholarship has examined Section 498A from diverse perspectives, including feminist legal theory, constitutionalism, socio-legal analysis and criminal jurisprudence. The literature therefore demonstrates that the debate surrounding Section 498A cannot be adequately understood through either a victim-centric or accused-centric approach alone. The following review examines the contributions of Flavia Agnes, Ratna Kapur, Pratiksha Baxi, and Andrew Ashworth, with each contribution analysed in terms of its objective, major findings and relevance to the present study.

1. Flavia Agnes

Purpose/Objectives of the Study:

Flavia Agnes examines the historical and social necessity of Section 498A of the Indian Penal Code, particularly in the context of domestic violence, dowry-related cruelty and the inability of traditional criminal law to adequately address violence occurring within the private sphere of the family. Her work seeks to establish why matrimonial cruelty required specific criminalisation and stronger legal protection for women.

Major Findings:

Agnes argues that Section 498A emerged as a necessary legislative response to the widespread prevalence of domestic violence and dowry-related cruelty. She observes that conventional criminal-law provisions had historically failed to recognise or

[5] *Arnesh Kumar v. State of Bihar,* (2014) 8 SCC 273 (India); *Social Action Forum for Manav Adhikar v. Union of India,* (2018) 10 SCC 443 (India)*; Kahkashan Kausar v. State of Bihar*, (2022) 6 SCC 599 (India).

effectively address violence within intimate and familial relationships. At the same time, she cautions against excessive emphasis on the alleged misuse of Section 498A, as such narratives may discourage genuine victims from approaching the legal system.

Relevance to the Present Study:

Agnes's work provides the foundational perspective for the present study by establishing the legitimate social and legal rationale behind Section 498A. Her analysis enables the present research to examine alleged misuse without questioning the fundamental necessity of protecting women from matrimonial cruelty.[6]

2. Ratna Kapur

Purpose/Objectives of the Study:

Ratna Kapur examines gender-based legal protection through the framework of feminist constitutionalism. Her scholarship seeks to analyse whether formal legal equality is sufficient to address structural discrimination and unequal power relationships between men and women within family and society.

Major Findings:

Kapur argues that criminal law must be understood within the broader social and institutional structures in which gender-based violence occurs. She recognises that legal mechanisms may occasionally be misused but maintains that individual instances of abuse should not obscure the systemic inequalities that necessitated protective legislation.

Relevance to the Present Study:

Kapur's analysis is relevant to the present study because it provides a constitutional and gender-sensitive framework for evaluating Section 498A. It helps ensure that concerns regarding misuse do not result in reforms that weaken protection for genuine victims. Her work supports the present study's attempt to reconcile substantive gender justice with procedural safeguards and individual liberty.[7]

3. Pratiksha Baxi

Purpose/Objectives of the Study:

Pratiksha Baxi approaches criminal justice from an empirical and socio-legal perspective, focusing on the manner in which legal provisions operate within actual institutional settings.

Major Findings:

[6] Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (1999).
[7] Ratna Kapur & Brenda Cossman, *Subversive Sites: Feminist Engagements with Law in India* (1996).

Baxi observes that the functioning of the criminal justice system cannot be assessed solely by examining substantive legal provisions or conviction and acquittal statistics. Matrimonial offences frequently occur within private spaces, resulting in limited independent evidence and creating difficulties in establishing criminal liability. She therefore cautions against treating acquittals as conclusive evidence that complaints were false.

Relevance to the Present Study:

Baxi's work is particularly relevant to the present study because it challenges simplistic claims regarding the extent of misuse of Section 498A. Her socio-legal approach therefore assists the study in developing a more nuanced assessment of alleged misuse and judicial safeguards.[8]

4. Andrew Ashworth

Purpose/Objectives of the Study:

Andrew Ashworth examines criminal law from the perspective of criminal jurisprudence, with particular emphasis on the principles governing the legitimate exercise of State coercive power. His work seeks to determine how criminal law can protect vulnerable individuals while simultaneously respecting procedural fairness.

Major Findings:

Ashworth argues that criminal sanctions must be justified not merely by the seriousness of the conduct they seek to punish but also by the fairness of the procedures through which criminal liability is established. His scholarship emphasises the importance of proportionality, legality and procedural safeguards in preventing arbitrary or excessive use of criminal law.

Relevance to the Present Study:

Ashworth's theoretical framework is directly relevant to the present study's examination of arrest, investigation and prosecution under Section 498A. His principles provide a basis for assessing whether procedural mechanisms adequately protect individual liberty while allowing the State to respond effectively to matrimonial cruelty.

III. Research Gap

[8] Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (2014).

There has been a substantial amount of scholarship on Section 498A from a range of feminist, sociological and criminal law perspectives, but few studies have combined the constitutional principles, judicial safeguards, empirical criminal justice data and recent legislative developments under the Bharatiya Nyaya Sanhita, 2023 into one analytical framework. Much of the literature is concerned with the protection of women against domestic cruelty or deals only with allegations of misuse, without adequately exploring the ways in which constitutional guarantees of equality, personal liberty and procedural fairness can be harmonised. Furthermore, the efficacy of the modern judicial safeguards through the integrated analysis of Supreme Court jurisprudence, NCRB statistics and institutional reforms has not been much studied. This study seeks to address that gap by proposing a constitutional balancing framework capable of protecting genuine victims while ensuring fairness and accountability within matrimonial criminal law.

IV. Research Methodology

The study is doctrinal and analytical in nature and is based upon examination of statutory provisions, constitutional principles, judicial precedents, Law Commission reports and secondary literature relating to matrimonial criminal law in India. The research critically analyses the growth of Section 498A of the Indian Penal Code and its corresponding provision under Section 85 of the Bharatiya Nyaya Sanhita, 2023 through the interpretation of landmark judgments of the Supreme Court of India.[9] In addition to doctrinal analysis, the study also includes an empirical analysis of publicly available data published by the National Crime Records Bureau (NCRB) such as registered cases, arrests, conviction rates, acquittals and suicide trends in relation to family and matrimonial disputes. The constitutional provisions, in particular, Articles 14, 15(3) and 21, provide the normative framework for evaluating the balance between the protection of victims and the rights of the accused.[10]

V. Research objectives of the Study

[9] Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 85, INDIA CODE (2023).
[10] INDIA CONST. art. 14; art. 15, cl. 3; art. 21.

This study seeks to achieve the following objectives.

1. To study the legislative history, aims and socio-legal basis of the enactment of Section 498A of Indian Penal Code, 1860.
2. To critically analyse the constitutional aspects of Section 498A of Indian Penal Code vis-à-vis Articles 14, 15(3) and 21 of the Constitution of India with a reference to the principle of Equality, Dignity, Personal Liberty and Procedural Fairness.
3. To analyse the judicial interpretation of Section 498A through landmark judgments of the Supreme Court of India with special reference to the development of safeguards against arbitrary arrests, omnibus allegations and abuse of the criminal justice system.
4. To analyse the empirical trends of implementation of Section 498A through an examination of National Crime Records Bureau (NCRB) data on the number of registered cases, arrests, conviction rates, acquittals and suicide related to matrimonial disputes.
5. To examine the degree of continuity and the legal implications of Section 498A under Section 85 of the Bharatiya Nyaya Sanhita, 2023 and determine whether the new legislative provisions adequately address concerns of procedural fairness and misuse.
6. To assess the shortcomings in the current legal framework governing matrimonial cruelty, both structurally and procedurally, and its effects on the victims, the accused and the administration of the criminal justice system.

VI. Scope of the study

This paper is concerned only with Section 498A of the Indian Penal Code, 1860 and its successor provision, Section 85 of the Bharatiya Nyaya Sanhita, 2023, as they apply within India. In terms of time period, the focus is really on the safeguard jurisprudence that developed from *Sushil Kumar Sharma* in 2005 down to *Kahkashan Kausar* in 2022, along with the shift brought about by the BNS in 2023–24; this is not an attempt to trace every single judgment on Section 498A since its enactment in 1983.

VII. Socio-Legal foundations of section 498A: Dowry, Domestic Cruelty and the Criminalisation of Matrimonial conduct

Section 498A of the Indian Penal Code was not enacted in a legal vacuum in 1983. It was because of this rising social concern about the status of married women within

marriage and the inadequacy of the existing criminal laws to deal with domestic cruelty and harassment for dowry.

To understand Section 498A, one has to see it in the backdrop of the social realities that existed before it was introduced. The provision was introduced in response to widespread reports of dowry harassment, domestic violence, suspicious deaths of married women and absence of effective legal mechanisms to address the cruelty taking place in the privacy of the matrimonial home.[11]

This chapter therefore analyses the historical and social circumstances that contributed to the criminalisation of matrimonial cruelty and discusses the policy objectives that were taken into account in the enactment of Section 498A.

1. Parliamentary debate on enactment of Section 498A

The parliamentary debates leading to the enactment of Section 498A of the Indian Penal Code echoed a growing concern over the increasing incidence of dowry harassment, domestic cruelty and unnatural deaths of married women. During the course of the debate on the Criminal law (Second Amendment) Bill, 1983, Members of Parliament acknowledged that matrimonial violence had reached alarming proportions and the provisions of the criminal law were not enough to deal with such offences. Some lawmakers noted that married women were often subjected to prolonged physical and mental abuse at home, and that traditional criminal law was not always effective in protecting them.[12]

A common theme threaded through the debates: the need to acknowledge cruelty in marriage as a social and legal problem in its own right, rather than a private family problem.

The Parliament consciously included mental cruelty and harassment for dowry demands in view of the fact that domestic abuse is more often than not sustained psychological intimidation and economic coercion and not episodic physical violence. At the same time, several members stressed that the purpose of the proposed provision was to protect genuine victims and to restore confidence in the criminal justice system, rather than to intrude into ordinary matrimonial disagreements.[13] Thus, the

[11] Criminal Law (Second Amendment) Act, No. 46 of 1983, Statement of Objects and Reasons (India).
[12] Lok Sabha Deb., Dec. 21, 1983, vol. XIII (1983).
[13] Indian Penal Code, 1860, No. 45 of 1860, § 498A expl. (a)–(b) (India).

enactment of Section 498A was conceived as a social welfare legislation to safeguard the dignity, security and constitutional rights of married women and to combat a grave social evil which had long remained beyond the purview of law.[14]

2. The Dowry System and Its Transformation

Dowry has been a part of Indian society for centuries in various forms. Transfers and gifts of property at the time of marriage were often considered to be voluntary contributions to aid the newly married couple. Dowry, however, underwent in the course of time very considerable change of character. What used to be a customary exchange increasingly turned into a mandatory financial demand on the bride's family. Cash, jewellery, vehicles, household goods and immovable property were often the subject of expectations in marriage negotiations. The commercialisation of the institution of marriage created an atmosphere in which women were vulnerable to coercion and abuse if their dowry expectations were not met. In many cases, demands continued even after marriage, leading to the persistent harassment of women and their families.

3. Domestic Cruelty as a private and invisible harm.

The cruelty in marriage is usually within the four walls of the house, whereas other crimes happen in the public domain. As a result, violence, intimidation, humiliation and coercion often go unnoticed by public eye. Historically, domestic violence was often viewed as a family matter, not a legal one. Social attitudes discouraged women from reporting abuse and family pressure often kept victims quiet. This culture greatly undermined the effectiveness of criminal law and led to underreporting of abuse. The hiddenness of domestic cruelty was one of the principal arguments for legislative intervention.[15]

4. Women's Rights and the Emergence of Legal Reform Movements.

During the 1970s and early 1980s, women's rights organisation were mobilised extensively all over India.

Activities increasingly observed:

[14] Statement of Objects and Reasons, Criminal Law (Second Amendment) Bill, 1983, reprinted in Gazette of India, Extraordinary, Pt. II, § 2 (1983).
[15] Flavia Agnes, *supra* note 6, at [page-5].

i. Dowry related violence
ii. Bride burning
iii. Domestic violence
iv. Lack of legal remedies
v. Police response inadequate

These concerns sparked a public debate on the adequacy of existing criminal laws. Women's organisations argued that the existing provisions on assault and homicide were inadequate because they did not capture the specific patterns of violence found in marriage.

5. Dowry Deaths: An increasing Concern

One of the major developments that led to the enactment of Section 498A was the rise in reported deaths of married women under suspicious circumstances.

The cases frequently involved:

i. Burn injuries
ii. Supposed kitchen accidents
iii. Unexplained suicides
iv. Lasting dowry demands

There was increased public concern as many of these incidents seemed to have been preceded by a long period of harassment before the killing. The inadequacy of existing criminal law to deal with these situations intensified the calls for particular legal protection.

6. Criminalisation as a Tool for Social Reform

The enactment of Section 498A raises a more fundamental issue in criminal jurisprudence; when should social problems be addressed by the criminal law

Criminalisation is often justified where conduct

i. Causes serious bodily injury:
ii. Involves the use of coercion or fraud to exploit vulnerable persons;
iii. Must provide strong deterrence:
iv. Reflects the public's deep concern

The legislators held that matrimonial cruelty met these conditions. Section 498A was therefore an effort to employ criminal law as an instrument of social reform by acknowledging that cruelty within marriage was not simply a private concern but a public wrong calling for state intervention.[16]

7. Causes for Section 498A

The primary purposes of the provision were protection, deterrence, accountability, and recognition of domestic abuse as a serious criminal offence rather than a private family matter.

8. Constitutional Bases of Protection Against Cruelty

Section 498A is a criminal provision but the underlying rationale of the provision has a close nexus to constitutional values. The provision is an attempt to promote equality under Article 14, protection against discrimination under Article 15(3), and dignity and personal liberty under Article 21.[17] The criminalisation of cruelty is a manifestation of constitutional commitment to ensure that women are enabled to live with dignity and security within the family structure. Thus, Section 498A should not be read merely as a penal provision but as a mechanism to realise constitutional guarantees.

The introduction of Section 498A was a reaction to the serious social concerns of dowry harassment, domestic violence and failure of existing legal mechanisms to protect married women adequately. This provision was part of a broader effort to make cruelty in marriage a serious public concern rather than a private family concern.

VIII. Misuse of Section 498A: Myth, Reality, and Empirical Evidence

Section 498A of the Indian Penal Code was enacted to protect married women from cruelty and harassment in the matrimonial home. Its implementation has created a lot of controversy. Courts, legal scholars, policy makers and civil society groups have over the years expressed concern about abuse of the provision through false, exaggerated or malicious complaints. The discussion on misuse is still one of the most controversial subjects of modern criminal law.

[16] Andrew Ashworth, *Principles of Criminal Law* (Oxford Univ. Press 1991).
[17] INDIA CONST. art. 14, art. 15, cl.3, art. 21, *Maneka Gandhi v. Union of India,* (1978) 1 SCC 248 (India).

The provision remains necessary, however, in view of continuing domestic violence and dowry harassment, according to women's rights advocates. On the other hand, judicial observations and statistical trends have raised concerns about arbitrary arrests, implication of innocent family members, prolonged criminal litigation and use of criminal proceedings as leverage in matrimonial dispute.

1. Understanding Abuse

The misuse of law is when a legal provision which was meant to serve a legitimate interest is used to serve other purposes than the one for which it was conceived.[18] The allegation of misuse is generally in the context of Section 498A where complaints are filed with the intention to pressure during matrimonial disputes, to obtain favourable financial settlements or to harass the husband and his family. We must distinguish between acquittal and misuse. It is not necessarily the case that every complaint was false simply because the conviction rate is low.[19]

Matrimonial offences do not as a rule automatically establish the falsity of all complaints. Matrimonial offences occur in the private domain and may have evidentiary problems. Complaints are often received naming every member of the husband's family, regardless of how they are actually involved in the alleged act of cruelty. However, courts have repeatedly found that complaints under Section 498A contain exaggerated allegations or indiscriminate implication of multiple family members without sufficient factual basis. The possibility of false complaints has serious consequences because the commencement of criminal proceedings itself carries serious social and legal consequences.

2. Exaggerated and false complaints

One of the most common concerns about Section 498A is that people will file false or inflated complaints. The courts have held that in many matrimonial cases the allegations are made in general and broad terms without specifying the role played by each alleged person. Complaints are often received naming every member of the husband's family, regardless of how they are actually involved in the alleged act of cruelty. The Supreme Court has repeatedly cautioned against mechanical prosecutions based solely on generalised accusations. In a number of cases the Court has observed

[18] *Sushil Kumar Sharma v. Union of India,* (2005) 6 SCC 281 (India).
[19] *Kahkashan Kausar, (2022) 6 SCC at 604 (India); Preeti Gupta, (2010) 7 SCC at 676–77 (India).*

that criminal proceedings should not be used as a tool of vengeance or personal vendetta arising out of matrimonial discord.[20] The serious consequence of the possibility of false complaints is that even the beginning of criminal proceedings has great social and legal consequences. The stain of criminal prosecution may linger for years

3. Implications of the Husband's entire family

One of the problems repeatedly raised by the courts is the tendency to involve the husband's whole family in matrimonial disputes. Complaints have been filed against elderly parents, married sisters living separately, distant relatives in many cases, when persons having minimal contact with the complainant. Often the naming of many relatives converts a matrimonial dispute between husband and wife into a criminal proceeding involving the entire family. The phenomenon has implications for the administration of justice. It clogs up the courts, subjects innocent people to criminal prosecution, and diverts investigative resources from real cases of abuse.[21]

4. Arrest as a tool of Coercion

Before judicial intervention, arrest was often immediate on registration of complaint under Section 498A. Police officers often exercised their powers of arrest without proper preliminary assessment of the allegations given the non-bailable and cognizable nature of the offence. The consequence was the persons could, for all practical purposes, be deprived of their liberty prior to any significant judicial review of the complainant. In many cases, the arrest itself was used as a pressure point to force the accused to compromise or settle, irrespective of the merits of the allegations. One of the most important developments in the history of Section 498A jurisprudence is the development of safeguards against arbitrary arrest.[22]

5. Judicial recognition of abuse

The judiciary has played a central role in recognising these concerns while preserving the provision's protective purpose, through the safeguard jurisprudence discussed in Chapter VI.

6. Conviction Trends and Empirical Analysis of NCRB Data

[20] *Kahkashan Kausar, (2022) 6 SCC at 603 (India); Preeti Gupta, (2010) 7 SCC at 676–77 (India).*
[21] *Geeta Mehrotra, (2012) 10 SCC at 749 (India).*
[22] *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 (India).*

Statistics give a crucial perspective on the working of Section 498A. The National Crime Records Bureau has been reporting thousands of cases registered every year under the provision. Low conviction rates, by themselves, do not establish misuse. They may, however, justify closer examination of investigative quality, evidentiary difficulties, case disposal patterns and the possibility of some frivolous or unsustainable litigation. There is a large gap between the number of registered cases and successful prosecution, which has led to public debate about the effectiveness and fairness of the existing framework. Researchers have also pointed out high number of arrests under Section 498A recorded over the relevant period. An empirical analysis of conviction rates, acquittals and arrests is therefore central to understanding how the provision functions in practice.[23]

7. Financial Implications of Malicious Prosecution

The criminal proceedings under Section 498A are normally a heavy financial burden on the accused and his family. The legal representation, multiple court appearances, travel costs and other litigation expenses can drag on for years until a final adjudication. Criminal prosecution can affect job prospects, business relationships, and career advancement, in addition to direct costs. Those accused of crimes often suffer reputational harm outside the courtroom. It is even more devastating, when more than one family member is named as a defendant. The cumulative burden of multiple simultaneous defences may impose great economic hardship on families. As a result, even where allegations are proved to be baseless in the end, the financial implications of prosecution may be irrevocable.

8. Psychological Effect and Suicidality

Another important part of the discussion is the psychological effect of criminal prosecution. Criminal allegations and long litigation can cause anxiety, depression, social isolation and emotional distress for those accused of a crime. In recent years, public discussion of the relationship between matrimonial litigation and mental health has increased. NCRB statistics show that a large number of suicides are linked to family problems and marital disputes. While it would be legally and academically wrong to associate such incidents only with Section 498A proceedings, the effect of prolonged matrimonial conflict on mental health cannot be ignored. Atul Subhash’s case had generated much public interest and revived the debate on the psychological

[23] Nat'l Crime Records Bureau, *Accidental Deaths & Suicides in India 2023*, ch. 2 (Ministry of Home Affairs, Govt. of India 2025), https://www.ncrb.gov.in (last visited Sept. 15, 2026) (on file with author).

pressure of litigation in matrimonial cases. The incident has given rise to much discussion about issues of procedural fairness, judicial delays, mental health and the need for balanced legal framework that can address both genuine victimisation and potential abuse of legal process.[24]

9. Protective Balance and Procedural Fairness

The challenge presented by Section 498A is to balance two equally important objectives. The first is to protect women from real cruelty, domestic violence and harassment related to dowry. The second is the protection of innocent persons against arbitrary arrest, malicious prosecution and abuse of criminal process. A good legal framework must be capable of dealing with both issues at the same time. An overemphasis on the risk of misuse may weaken protection for real victims; an underemphasis may undermine public confidence in the criminal justice system. Judicial safeguards that have developed over the past two decades are attempts to strike a balance. The attention to specific allegations, due investigation, judicial monitoring of arrests and procedural fairness reflect an evolving understanding of how criminal law should function in matrimonial disputes.

IX. Judicial Response to the Misuse of Section 498A: Evolution of Procedural safeguards.

The enactment of Section 498A represented a significant legislative effort to combat cruelty and harassment faced by married women. While the provision served an important protective purpose, concerns regarding its misuse gradually emerged before various courts across the country. Complaints relating to the discriminatory arrests, implication of distant relatives, prolonged criminal proceedings, and misuse of criminal process prompted judicial intervention. The Indian judiciary has consistently maintained that the existence of misuse cannot be a ground for declaring the statutory provision unconstitutional. At the same time, courts have recognised that criminal law must operate in accordance with principles of fairness, proportionality, and personal liberty.

1. Constitutional foundations of judicial intervention

Judicial safeguards have grown up in relation to Section 498A on the basis of constitutional principles. Article 21 of the Constitution guarantees that no person can

[24] *Nikita Singhania & Ors. v. State of Karnataka & Anr.,* Criminal Petition No. 14463 of 2024, 2025 LiveLaw (Kar) 69 (Karnataka H.C.).

be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court has repeatedly held that such procedure must be fair, just and reasonable. Concerns are raised regarding personal liberty and due process in the case of arbitrary detention, mechanical remand orders, and prosecution on the basis of vague allegations. Thus, courts have treated the misuse debate not simply as domestic issue, but as constitutional issue involving the protection of individual freedom and the fair administration of criminal justice. So, the intervention of the judiciary has been guided by the need to ensure that criminal law is not a tool of harassment but an instrument of justice.[25]

2. ***Sushil Kumar Sharma v. Union of India (2005)***

Sushil Kumar Sharma v. Union of India (2005) was among the most significant and earliest rulings dealing with the issue of misuse. The petitioner challenged the constitutional validity of Section 498A on the ground that it was often misused. The Supreme Court rejected the challenge and upheld the constitutionality of the provision. The Court noted that the possibility of misuse cannot be ground to strike down a valid law enacted for a valid social purpose. However, the court at the same time, took note that in some case abuse of the provision has been reported. It noted that abuse of process may occur if a legal provision is used for purposes other than those intended by the legislature. The court famously noted that in some cases misuse of the provision could amount to "legal terrorism". What makes the judgment important is the balance it strikes. But the Court did not throw out the provision or dismiss concerns over abuse. It rather emphasised the importance of effective implementation and judicial scrutiny.[26]

3. ***Preeti Gupta v. State of Jharkhand.***

Preeti Gupta v. State of Jharkhand further addressed misuse concerns. The Supreme Court noted that matrimonial disputes often led to criminal complaints containing exaggerated allegations against several family members. It noted that complaints were often couched in a language that implicated all relations of the husband without mentioning specific acts of cruelty. The Court was troubled by the increasing practice of engaging distant relatives in criminal proceedings in the absence of specific

[25] *Maneka Gandhi v. Union of India,* (1978) 1 SCC 248 (India).
[26] *Sushil Kumar Sharma*, (2005) 6 SCC at 287–88 (India).

allegations. It warned that indiscriminate prosecution could have serious implications for innocent people and their families.[27]

4. ***Arnesh Kumar v. State of Bihar***

The most important safeguard against misuse came out of the landmark decision in *Arnesh Kumar v. State of Bihar.* The case concerns the issue of routine arrests for offences punishable with up to seven years imprisonment, in particular under Section 498A. The Supreme Court observed that arrest had become a routine practice soon after registration of a FIR, often without proper examination of necessity of such arrest. In view of the serious consequences of arrest on personal liberty, the Court laid down clear guidelines.

Key directions issued by the Hon'ble Court

i. Arrest should not be automatic on filing of a complaint.

ii. Police officers must be satisfied that the arrest is necessary under the conditions prescribed by law.

iii. The reasons for arrest shall be recorded in writing.

iv. Magistrates shall independently verify the legal requirements of the arrest before giving their authorisation for detention.

v. Non-compliance with these directions may lead to departmental action against the police officers and the judiciary looking into the remand orders.

The Arnesh Kumar judgment changed the practical working of the Section 498A and is still one of the most influential decisions regarding the arrest procedures in India.[28]

5. ***Rajesh Sharma v. State of Uttar Pradesh***

In *Rajesh Sharma v. State of Uttar Pradesh*, complaints about the misuse of Section 498A were examined by the Supreme Court. The Court noted that a number of complaints were against several family members and indiscriminate arrests could shake the confidence in the criminal justice system. To address these concerns, the court proposed the creation of Family Welfare Committees to look into complaints before any coercive action where appropriate. Certain aspects of these directions were

[27] *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667(India).
[28] *Arnesh Kumar,* (2014) 8 SCC at 281 (India).

reconsidered; the judgment was a reflection of the judicial acknowledgement of the need for safeguards against frivolous complaints.[29]

6. ***Social Action Forum for Manav Adhikar v. Union of India***

The directions given in Rajesh Sharma were subsequently cited in *Social Action Forum for Manav Adhikar v. Union of India.* The Supreme Court ruled that courts cannot invent mechanisms that serve as substitutes for statutory procedures passed by Parliament. As a result, some directions regarding Family Welfare Committees were modified. But it kept the general principle that procedural safeguards against arbitrary arrest and abuse of process are still needed. The judgment aimed to uphold the protective purpose of the provision while satisfying the constitutional and procedural requirements.[30]

7. ***Kahkashan Kausar v. State of Bihar***

In *Kahkashan Kausar v. State of Bihar*. The Supreme Court dealt with the perennial issue of implicating the husband's relatives through vague and omnibus allegations. The Court held that the criminal proceedings against relatives cannot be sustained on the basis of general allegation alone. It stressed that complaints should contain specific allegations showing the part played by each accused person. The court observed that the propensity to implicate relatives without sufficient factual foundation could lead to abuses of criminal process. It reiterated that the court has to exercise caution before allowing prosecution against the family members who are not directly connected with the alleged acts of cruelty. This judgment has been an important precedent in quashing proceedings on the basis of vague allegations.[31]

8. **The 243rd Law Commission Report (2012)**

The 243rd Law Commission Report (2012) on Section 498A IPC is one of the most important policy documents that have looked at the working of the provision. The report was prepared in the backdrop of rising concerns around arbitrary arrests, prolonged criminal proceedings and alleged misuse of Section 498A. However, the report also recognises the indispensable role of Section 498A in protecting married women from cruelty and harassment related to dowry. The Commission took a balanced approach. It stressed that the law should continue to serve its protective purpose but also include procedural safeguards against abuse. It did not call for the

[29] *Rajesh Sharma,* (2018) 10 SCC at 478–79 (India).
[30] *Social Action Forum for Manav Adhikar v. Union of India,* (2018) 10 SCC 443 (India).
[31] *Kahkashan Kausar v. State of Bihar*, (2022) 6 SCC 599 (India).

provision to be watered down or repealed. One of the main recommendations was that Section 498A should be made compoundable with the permission of the court.

The Commission also stressed the importance of strict adherence to judicial guidelines in relation to arrests, so that coercive measures are used only where it is genuinely necessary to do so. The 243rd Report also rejected the argument that isolated instances of misuse justify the weakening of the statutory protection available to women. Instead, it recognised that the answer lies in better investigation, responsible policing and stronger judicial oversight rather than diluting the deterrent values of the provision. Its recommendations remain a useful guide to interpretation and application of Section 85 of the Bharatiya Nyaya Sanhita, 2023, in an effective manner and in accordance with principles of fairness, due process and justice.[32]

9. Emerging Judicial Principles

Looking at Supreme Court decisions, there are few things you can count on. Firstly, Section 498A is a valid and necessary provision to protect women from cruelty and harassment. Secondly, courts cannot ignore the valid concern of the misuse of the provision. Thirdly, arrest should not be automatic and should be done with constitutional safeguards. Fourth, general and omnibus allegations of criminal conduct are not sufficient to support criminal prosecution of several relatives. Fifth, magistrates must independently consider requests for detention and remand. Sixth, personal liberty under Article 21 continues to be a key consideration in the application of criminal law They are all the judiciary's principles trying to balance victim protection and procedural fairness.

10. Effect of Judicial Safeguards

Judicial intervention has changed the functioning of Section 498A to a larger extent. The focus on specific allegations, controlled arrest powers, judicial supervision and protection of individual liberty has reduced arbitrary prosecution. But courts have also repeatedly not watered down the substantive protection that is available to authentic victims. The aim has not been to dilute the offence but to ensure its enforcement is fair, proportionate and consistent with constitutional values. The developments of safeguards show that judicial review can address procedural imbalances without destroying the fundamental purpose of social welfare legislation.

[32] Law Comm'n of India, supra note 24.

X. Socio-Economic and Psychological Consequences of Section 498A Proceedings: Evidence and Policy Implications.

The issue of Section 498A is not just about legal interpretation and judicial safeguards. The initiation of criminal proceedings under the provision often has far-reaching social, economic and psychological effects on all parties involved. Although the law was passed to protect women from cruelty and harassment, there have been increasing concerns about the impact of prolonged criminal litigation, arrests, reputational damage and financial burden on accused person and their families. The aim of this chapter is not to assume that all complaints under Section 498A are false, but to examine the litigation costs, mental health effects, and suicide figures.

1. **Arrest and deprivation of personal liberty**

   One of the most serious consequences that has historically been associated with proceedings in the possibility of arrest immediately after registration of a complaint. Earlier, before the Supreme Court's intervention in *Arnesh Kumar v. State of Bihar*, it was a common practice to arrest people on day-to-day basis. Arrest isn't just about temporary detention, it has consequences. It affects personal freedom, social position, professional standing and family relationships. The consequences of arrest are often irreversible even if the accused is eventually acquitted. The Supreme Court has taken note to these concerns and observed that arrest cannot be a mechanical consequence of registration of FIR.

2. **Financial Impacts of Criminal Matrimonial Litigation**

   Criminal litigation under Section 498A can involve substantial economic cost to the accused and his/her family.

   Such costs might include:

i. Legal representation costs.

ii. Proceedings before bail.

iii. Travel and subsistence expenses.

iv. Working days lost.

v. Expenses of attendance at court.

vi. Expenses of concurrent matrimonial proceedings.

There are many matrimonial disputes where multiple proceedings run concurrently like Section 498A complaints, Maintenance proceedings, domestic violence cases, divorce petitions, child custody disputes. Litigation cost could drag on for years. The financial burden is particularly severe when several family members are defendants. Elderly parents, retired persons and relatives living apart may also be forced to hire legal counsel and go through a long court process. Even if allegations ultimately do not stand up, the financial costs of litigation are hardly ever recoverable.

3. **Effect on Employment and Professional Reputation**

The criminal justice process can often be damaging to one's career prospects and advancement. If you are employed with the Government, a regulated professional, a bank or corporate organisation or in a position that requires background checks, you will have considerable problems if you have criminal charges pending against you. Outside the court, the social stigma attached to allegations of dowry harassment or cruelty often spills over. Negative perception among employers, fellow workers, clients and community members are often developed long before guilt or innocence is determined by a court. Regardless of the ultimate outcome of the case, allegations such as these in careers built on public trust and reputation can have long term impacts. The reputational effect is therefore an important but neglected consequence of criminal litigation.

4. **Psychological effects of criminal proceedings**

The psychological implications of protracted matrimonial litigation have increasingly come to the attention of legal scholars' and mental health professionals. Criminal proceedings can lead to anxiety, depression, emotional distress, social isolation, sleep disorders and feelings of helplessness for those involved. The uncertainty of litigation that is pending can often be a great source of mental stress. The problem is particularly severe where proceedings continue pending for many years. Personal relationships and social standing can also be affected by charges of cruelty, dowry harassment and domestic abuse. Family members in criminal proceedings often say they feel emotionally drained because of the long period of uncertainty the legal process creates.

5. **Suicide Statistics and Marital Disputes**

One of the most sensitive issues in contemporary discussion is the relationship between matrimonial disputes, family conflict and suicide. The latest NCRB data shows family problems remain the single largest reported cases of suicides in India.

According to NCRB data for 2023, there were more than 55,000 suicides attributed to family problems and over 8,500 suicides to marriage related problems. Likewise, NCRB data for 2023 pointed to family problems as the top reason for suicide across the country. It is important to stress statistics do not establish a direct causal relationship between proceedings under Section 498A and suicide. These categories encompass family and marital circumstances broadly and do not isolate persons involved in Section 498A proceedings; they are therefore used only as contextual indicators of the broader psychological burden associated with matrimonial conflict.

Suicide behaviour can be the result of many factors such as family conflict, breakdown of marriage, financial stress, mental illness and many other facts. However, the data suggest that psychological distress caused by family and marital disputes is significant source of psychological distress in Indian society. As a result, the mental-health implications of prolonged matrimonial litigation deserve serious academic and policy attention.[33]

6. The Atul Subhash Case and Public Debate

The 2024 death of Bengaluru-based software engineer Atul Subhash sparked a national debate on matrimonial litigation, mental health, and allegations related to ongoing processes. Subhash said to have left detailed allegations related to ongoing matrimonial disputes and several proceedings before his death. The incident later generated public debate, petitions for reform of family laws and a fresh look at the procedural safeguards in matrimonial litigation. From an academic perspective, the Atul Subhash case does not serve as proof that all complaints under Section 498A are false. Instead, it provides a case study of the wider concerns about:

i. Financial distress.

ii. Mental health effects.

iii. Disparity in perceived legal remedies.

iv. Public confidence in the justice system.

What makes the case more important is the public debate it has sparked over the need to balance protection for real victims with safeguards against abuse of legal processes.

7. Public Opinion, Conviction Rates, Acquittals

Conviction rates and acquittal trends are also an important part of the misuse debate. The low conviction rate and the large number of quashing petitions have in the

[33] *Nat'l Crime Records Bureau, supra* note 25.

meantime given rise to judicial concerns about indiscriminate prosecution. Recent academic studies of matrimonial litigation indicate that a significant number of quashing petitions are granted by the higher courts, a fact that might suggest that such prosecutions remain under judicial scrutiny. The available evidence indicates that the debate cannot be reduced to a story of either widespread misuse or total legitimacy. It points, rather, to structural problems in the administration of matrimonial criminal law.

8. Need for a balanced approach

Empirical evidence shows that there are two realities

First, cruelty, domestic violence and harassment on dowry are real social problems and can be protected effectively by law. Courts have repeatedly recognised the second concerns of arbitrary prosecution, reputational harm, financial burden and mental-health consequences

A sound legal framework should therefore aim at two objectives:

i. The effective protection of genuine victims.

ii. Prevention of abuse of process in criminal matters.

The validity of Section 498A depends on its ability to achieve both objectives without sacrificing justice to the victims or justice to the accused.

The fallout of Section 498A proceedings goes far beyond the courtroom. Criminal prosecution can impact personal liberty, finances, employment, reputation, family relationships and mental health.

XI. Structural Deficiencies in the Existing Legal Framework: A Critical Analysis

The judicial safeguards fashioned by the Indian courts have substantially reduced the risk of arbitrary arrests and indiscriminate prosecution under Section 498A. But issues of misuse, long-drawn litigation, social stigma and procedural inefficiencies continue to crop up. This persistence suggests that the problem is not merely one of defective investigation or isolated instances of abuse. Rather, it reveals deeper structural flaws in the legal regime regarding matrimonial disputes. This chapter seeks to identify and critically evaluate these systematic deficiencies. The chapter concludes that judicial intervention has

alleviated some of the worst effects of the abuse, but the fundamental institutional and procedural problem is largely unaddressed.[34]

1. **Criminalisation of complex matrimonial disputes**

One of the major structural issues is the propensity to resort to criminal law in the resolution of complex matrimonial disputes. Marriage is emotional, social, economic and interpersonal. A great many conflicts stem from incompatibility, communication problems, money issues, interfering in family matters or the irreparable breakdown of relationships. While some conduct undoubtedly constitutes criminal cruelty, not all marital conflicts warrant criminal prosecution. The use of criminal sanctions is highly charged family disputes may increase hostility between the parties and decrease the chances of reconciliation. Criminal proceedings tend to turn private disputes into adversary court proceedings, making it harder to negotiate settlements. This concern does not mean that the criminal law should not be shut out of matrimonial disputes. Rather, it emphasises the need to distinguish between actual criminal conduct and ordinary marital discord. Instead, it points to the need for a careful distinction between real criminal behaviour and normal marital discords.

2. **Absence of Effective Preliminary Assessment Mechanisms**

A frequent issue is the absence of a robust early-assessment process for allegations. In many cases, investigators are required to make decisions on arrest, prosecution and charge-sheeting at a time when the facts are still in dispute and evidence is scarce. Judicial safeguards require application of mind before arrest, but there is no uniform national framework for the preliminary assessment of matrimonial complaints. As a consequence, outcomes are often hugely dependent on investigative practices: local police procedures, availability of evidence, individual discretion of investigating officers. Such inconsistencies generate uncertainty and may erode public confidence in the fairness of the system.

3. **Delay in Investigation and trial**

Delay is still one of the most serious failings in the criminal justice system. Such matrimonial proceedings often drag on for years before final adjudication.[35]

[34] *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273 (India); *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443 (India).
[35] *Hussainara Khatoon, (1980) 1 SCC at 89 (India).*

During this period, complainants may experience considerable uncertainty as to legal results; accused persons may continue to carry a social stigma; and families are faced with significant legal costs. Witnesses forget and the odds of the amicable settlement go down. Justice delayed is justice denied to victims as to accused persons. Long drawn-out proceedings often become a punishment in themselves irrespective of the final result. Delay continues to be counterproductive to the aims of victim protection and procedural fairness.[36]

4. No Sanctions for frivolous Litigation

The legal system has mechanisms to deal with false evidence and malicious prosecution. But remedies of this kind are rarely successfully invoked in matrimonial disputes. In practice the consequences for misuse of legal process are limited when allegations are clearly false, or are deliberately fabricated. Accountability issues still persist, however. If people are afraid of prosecution whenever allegations cannot eventually be proved, real victims may be deterred from reporting abuse. The challenge is therefore to distinguish malicious complaints from those that are unsuccessful because of the difficulties of proof.

5. Impact on third parties.

The ongoing legal process often brings important consequences for parents, siblings, children and other relatives. Even where the proceedings are eventually quashed or end in acquittal, the effect on third parties can be significant. Consequences can include emotional distress, financial burden, social stigma and disruption of family relationships. The law has not adequately addressed the collateral effects of matrimonial litigation on the members of the extended family.

6. Poor Integration of Mental health considerations

Mental health is an increasingly important consideration in the debate about matrimonial litigation. Family conflict, separation, criminal allegations, and lengthy litigation have profound psychological consequences. But mental health concerns remain largely marginal to legal processes. Courts are mostly concerned with legal rights and legal procedures, and not so much with emotional and psychological aspects. And yet this reality means mental health remains largely peripheral to legal processes. Courts are concerned with legal rights and matters of procedure, with little attention given to emotional and psychological factors.

[36] *A.R. Antulay v. R.S. Nayak,* (1992) 1 SCC 225 (India).

Further integration of counselling services, psychological help and support structures may help reduce the adverse effects of protracted litigation.

7. Victim protection versus Due process

The most fundamental challenge may be the tension between victim protection and procedural fairness. Good legal systems must afford immediate protection to genuine victims, respect constitutional liberties, fairly investigate, prevent arbitrary arrests, and hold those who abuse the process to account. If the safeguards are too restrictive, real victims may not be able to receive timely protection. On the other hand, procedural protection could be weakened, leading to wrongful prosecutions of innocent people. This tension remains an ongoing challenge that cannot be resolved through simple legal solutions.

8. Loss of public confidence and perception

Public confidence is essential to the legitimacy of any legal system. There has been much public debate about competing narratives around Section 498A. Some see the provision as a vital protection against domestic violence, others as open to abuse. The simultaneous presence of these narratives has led to polarisation, mistrust. For a legal system to command public confidence, it must be seen to work and be fair.

XII. Recommendations and Reforms

The previous chapters of this research examined the legislative history of Section 498A of the Indian Penal Code, the judiciary's concerns regarding its misuse, the social and psychological impact of matrimonial litigation.

There is no gainsaying the need for Section 498A. The provision was enacted to tackle a serious social evil and still is an important remedy for women victims of cruelty of domestic violence. However, in last two decades, the courts have repeatedly taken cognizance of concerns of exaggerated allegations, indiscriminate arrests, implication of distant relatives, prolonged litigation and misuse of criminal proceedings as a tool to pressurize matrimonial disputes, created by courts to prevent abuse of criminal process. The analysis shows that the issue of Section 498A is not about retention or repeal. Rather, it is about how to concurrently safeguard fairness, due process, and constitutional protection for those charged under the provision. This study proposes reforms that would

create a more balanced matrimonial justice regime that would remain responsive to the historical disadvantages of women but also improve procedural fairness and accountability with the criminal justice system.

1. **Taking a Constitutional balancing Approach**

   The most significant reform suggested by this study is the introduction of a Constitutional Balancing Model for matrimonial offences. The issues are often framed in contemporary debates as a clash between women's rights and the rights of accused persons. This characterisation is neither true nor helpful. The Constitution of India guarantees both substantive equality and individual liberty together.

   Articles 14 and 15 allow special protection to be extended to the socially and educationally backward classes of the citizens. Article 21 states that no person shall be deprived of his life or personal liberty except according to the procedure established by law:

i. Effective protection of women from cruelty, harassment and dowry-related violence.

ii. To protect individuals against arbitrary arrest, malicious prosecution and abuse of process.

The answer to misuse, therefore, is not less protection for women but more procedural protections for all parties involved.

2. **Formation of Specialised Matrimonial Investigation Units**

   The courts have repeatedly pointed out that the inadequate investigation of matrimonial offences is a matter of concern.[37]

   The investigative officers often find themselves caught between very emotional arguments-charges of cruelty, financial disputes, family conflicts, and competing versions of the events. Specialised Matrimonial Investigation Unit should be established in Every district to improve the quality of investigation. Officers assigned to these units should have specialised training in:

   i. The matrimonial law;
   ii. Dynamics of domestic violence;
   iii. Evidence collection;
   iv. Psychological assessment;
   v. Family dispute resolution;

[37] *Arnesh Kumar v. State of Bihar,* (2014) 8 SCC 273 (India); *Preeti Gupta v. State of Jharkhand,* (2010) 7 SCC 667 (India).

vi. Gender sensitivity;

Specialist units would be more able to differentiate between genuine cases of cruelty and normal marital friction, and would reduce the likelihood of mechanical arrests and indiscriminate prosecution.

3. A revisit to matrimonial cruelty under the Bharatiya Nyaya Sanhita, 2023

Considering the importance of Section 498A IPC in the discussion of matrimonial cruelty, it is necessary to observe whether the legal treatment of cruelty by husband or his relatives has undergone any significant change due to the enactment of Bharatiya Nyaya Sanhita. The offence earlier found in Section 498A IPC has been substantially reproduced as Section 85 BNS under the Bharatiya Nyaya Sanhita.[38]

A comparison of the two provisions shows that the legislative definition of cruelty has not altered substantially. The basis of criminal liability remains the categories of conduct recognised as cruelty, including wilful conduct likely to drive a woman to commit suicide or cause grave injury to her life, limb or health, as well as harassment connected with unlawful demands for property or valuable security.

4. Statutory Adoption of the Arnesh Kumar safeguards.

The judgment in *Arnesh Kumar v. State of Bihar* changed the approach to arrests in Section 498A cases. The judgment held that arrests should not be automatic and that police officers should follow the requirements of Section 41 of the Code of Criminal Procedure.[39] Therefore, the protections created by the Supreme Court should be expressly incorporated in legislation.

i. Arrests should be on the basis of necessity and not accusation;

ii. Police officers should write down reasons for arrest;

iii. Magistrates should independently investigate the legality of arrests;

iv. Failure to comply with these requirements should have departmental consequences.

Such measures would safeguard constitutional liberties while maintaining the efficacy of the criminal law.

5. Protection from omnibus allegations

[38] Statement of Objects and Reasons, *Bharatiya Nyaya Sanhita Bill, 2023*, Bill No. 121 of 2023 (Lok Sabha, Aug. 11, 2023).

[39] Code of Criminal Procedure, 1973, No. 2 of 1974, § 41, INDIA CODE (1974).

In various judicial decisions, the tendency to implicate all the members of the husband's family without any actual involvement has been condemned.

To remedy this problem, legislation should explicitly require that complaints contain the following;

i. Particularised allegations;
ii. Particularised facts;
iii. Individualised attribution of conduct;
iv. Appropriate dates and circumstances of alleged acts;

6. Systematic Pre-Arrest Evaluation Process

A structured mechanism for pre-arrest assessment should be established where appropriate. The assessment process may include:

i. Examination of supporting material;
ii. First verification of allegations;
iii. Discussion of proximate risk factors;
iv. Identification of cases suitable or mediation;

But the scrutiny should not apply in cases of allegations of serious violence, physical injury, threats to life or immediate damage to the complainant.

7. Liability for Malicious Prosecution

There should be a distinction in the legal system between complaints that fail due to lack of evidence and complaints that are obviously false or malicious.

Measures that may be taken include:

i. Costs of litigation;
ii. Wrongful conviction compensation;
iii. Punishment for intentionally producing false evidence;
iv. Proceedings for malicious prosecution;

Such measures should only be applied where there is clear evidence of malice so that true victims are not discouraged from seeking the legal system.

8. Development of gender-neutral support services

Legal aid, counselling, psychological support and family welfare assistance should be available to all affected parties on need basis rather than on gender basis

9. Clarification of "cruelty" by the legislature

The courts often distinguish judicial decisions as to real cruelty and ordinary matrimonial discord.

To reduce uncertainty, legislative clarification should provide more guidance on;

i. Physical cruelty;
ii. Psychological abuse;
iii. Financial abuse;
iv. Control of coercion;
v. Harassment in relation to dowry demands;
vi. Protection of Old People and vulnerable relatives.

XIII. CONCLUSION

Section 498A continues to be an important part of India's legal response to domestic cruelty and harassment in the context of dowry. This means that its continuing existence is not only necessary but also constitutionally justified.

At the same time, the jurisprudence developed by Indian courts shows that concerns of misuse cannot be dismissed as an isolated anomaly. Reform should not be about reducing legal protections for women, or turning the debate into a tug-of-war between competing gender interests. Instead, reform should concentrate on improving integrity in the legal process.[40]

A just matrimonial system, is one which protects real victims, preserves constitutional liberties, prevents misuse of criminal process, promotes mental health and ensures timely resolution of dispute. Such a framework would respect both the constitutional commitment to protect historically disadvantaged women, and the equally important constitutional guarantee that every individual is entitled to fairness, dignity and due process under the law.

[40] *Sushil Kumar Sharma v. Union of India,* (2005) 6 SCC 281(India); *Preeti Gupta v. State of Jharkhand, (*2010) 7 SCC 667 (India)*; Arnesh Kumar v. State of Bihar,* (2014) 8 SCC 273 (India)*; Rajesh Sharma v. State of Uttar Pradesh,* (2018) 10 SCC 472 (India)*; Kahkashan Kausar v. State of Bihar*, (2022) 6 SCC 599 (India).