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GENDER JUSTICE IN INDIA: SHIELD OR SWORD?

AUTHORED BY – RAGHAV SAKUJA

Abstract:

The idea of gender justice in India is grounded in the Constitution, which promises equality under Articles 14, 15, and 21. To address the historic disadvantages faced by women, Parliament has passed several protective laws, including the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace Act, 2013. These laws were designed as shields to protect women from exploitation and violence. However, over time, their misuse has become a serious concern. Courts have repeatedly noted how provisions such as Section 498A of the Indian Penal Code have been misapplied, sometimes leading to the harassment of innocent men and their families. This paper examines how gender-specific laws, while serving an important role, have also been used as weapons in certain cases. It argues for gender-neutral reforms, stricter action against false complaints, and the creation of support mechanisms for men. Achieving true gender justice requires a legal system that protects both men and women equally, ensuring fairness, dignity, and accountability for all.

Keywords: Gender justice, equality before law, misuse of law, gender-neutral reforms, false complaints, legal safeguards

Introduction:

What is Gender and how it is different from sex: Gender is a socio-cultural term which refers to the socially defined roles, expectations and behavior assigned to males and females. While sex in contrast refers to the biological and physiological characteristics that differentiates a man from women.

Gender Bias: Gender bias refers to the discrimination done on the basis of the gender neglecting individual ability or quality.

Gender justice: Gender Justice refers to the complete annihilation of inequalities between male and female in society, law and policy which will ensure equal access to rights, opportunities

and dignity.

The idea of equality has always been echoed by the Article 14¹, Article 15(1)² and Article 21³ of the Indian Constitution. However, considering the vulnerable historical position of women in the Indian society where they were always subject to gender biasedness the forefathers of constitution of India have conferred the parliament with exceptional powers to enact special provisions for protection of women under 15(3)⁴ of the Indian constitution enabling affirmative action to address their specific needs and challenges.

Over the period of 75 years the Parliament have enacted several legislations with the aim of improving the situation of women in the society. These legislations include: Dowry Prohibition Act 1961⁵, Section 85 Bharatiya Nyaya Sanhita 2023⁶ (previously Section 498-A Indian Penal Code 1860), The Protection of Women from Domestic Violence Act 2005⁷, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

These laws were made with the aim to protect women however; it is seen that in several instances they are being misused due to which men have been subject to unwarranted legal action. It is not wrong to say that lack of serious consequences for filling fake cases have given women unbridled power which surely undermines the principle of equality and rule of law. All this have led to an uproar and the demand for amending such gender biased laws have gained momentum nationwide.

Legal Provisions Misused by Women:

Indian Parliament have enacted special statutes for the protection of women from violence, harassment and discrimination. The aim was to correct past injustices and eradicate social evils like dowry, infant feticide and domestic abuse. Since most of such laws were enacted for the betterment of women, men lack similar legal protection under these provisions and not only, they lack protection sometimes these laws are even used as the sword against them.

¹ INDIA CONST. art. 14

² INDIA CONST. art. 15, cl.1

³ INDIA CONST. art. 21

⁴ INDIA CONST. art. 15, cl. 3

⁵ Dowry Prohibition Act, 1961, No. 28, Acts of Parliament, 1961(India)

⁶ Bharatiya Nyaya Sanhita, 2023, No. 45, § 85, Acts of Parliament, 2023(India)

⁷ The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005(India)

Section 85 Bharatiya Nyaya Sanhita, 2023 (Previously Section 498A Indian Penal Code, 1860):

Section 85 of the BNS states that “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.”

This section was introduced with the objective of eradicating the social evil of dowry. In post-independence era when illiteracy was prevalent there were rise in cases of dowry deaths. Women were forced to bring exorbitant amounts of money or goods as dowry with them and when these demands were not met, they were subjected to both mental and physical torture. Often to escape trauma women resorted to suicide. To protect them this provision was brought into effect.

However, it is now an open secret that this provision is among the most misused legal provisions. Many women employ it as a tool to blackmail their husbands and in-laws. Since the offence is cognizable husbands and their families are often arrested without any preliminary inquiry. This makes law a potent weapon to harass men. Unfortunately, there is still no statutory safeguard protecting men from such arbitrary arrests. Despite recent amendments to criminal law, no conclusive changes have been made to address this concern.

A recent development came on July 22, 2025 when the Supreme court of India in the case of *Shivangi Bansal v. Sahib Bansal*⁸ delivered a landmark judgment, Shivangi an IPS officer filed multiple complaints against her husband and in-laws. As litigation continued the Allahabad High Court issued guidelines in 2022 for section 498 A cases. The high court held that there should be a two-month cooling period before arrest and the parties must be referred to Family Welfare Committees to address misuse. The issue then reached the supreme court where the apex court upheld the Allahabad High Court 2022 guidelines of two month cooling off period, no arrests under section 498A during that period must be made and compulsory referral to Family Welfare Committees for mediation. Supreme court directed the wife to issue unconditional apology to Sahib’s family for the harm caused by frivolous cases filed against them.

Earlier in the case of *Arnesh Kumar v. State of Bihar* in this case the Supreme Court made an

⁸ *Shivangi Bansal v. Sahib Bansal*, (2025) LiveLaw (SC) 735, 2025 INSC 883 (India).

important observation the court stated that even though the provision 498A was made for the protection of women the section is prone to misuse. The court observed that there is phenomenal increase in the filling of fake cases under 498A IPC. The court held that as Section 498A is a cognizable and non bailable offence for that reason it is being misused to harass husband and his relatives. Highlighting the misuse the court further observed that in some cases even the bed ridden grandfather and grandmother of the husband are arrested. The apex court analyzed the Crime in India report of 2012 published by National Crime Records Bureau, Ministry of Home affairs. The report cited that 1,97,762 persons were arrested under 498A which is 9.4 percent more than the 2011 statistics, further the court pointed out that the rate of filling charge sheets under 498A is as high as 93.6 percent. However, the conviction rate is 15 percent further the report stated the 3,72,706 cases are pending trial of which on the current estimates nearly 317000 are likely to result in acquittal. All this shows the vulnerability of section 498A and its misuse.

In *Archin Gupta v. State of Haryana*⁹, the Supreme Court held that Section 498A IPC should not be applied mechanically. The Court observed that minor marital issues were often exaggerated by the wife's family which lead to misuse of police machinery to harass the husband. The Court stated that, "many times, the parents including the close relatives of the wife make a mountain out of a mole. Instead of salvaging the situation and making all possible endeavors to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the Police, as if the Police is the panacea of all evil". The Court further emphasized that such actions amounted to the abuse of the legal process and that the High Court should have quashed the proceedings under Section 482 of the CrPC. The Court also directed the legislature to amend the provisions to address the pragmatic realities.

Other decisions have also reinforced this line, In *Charan Singh v. State of Uttarakhand*¹⁰, the Division Bench of Abhay S Oka and Rajesh Bindal JJ., held that mere death of the deceased being unnatural in the matrimonial home within seven years of marriage will not be sufficient to convict the accused under Section 304-B and 498-A of the IPC if the cruelty or harassment

⁹ *Archin Gupta v. State of Haryana*, (2025) 3 SCC 756 (India).

¹⁰ *Charan Singh v. State of Uttarakhand*, (2023) SCC OnLine SC 454.

has not been proved to be soon before the death. Similarly in *Sushila v. State of U.P.*¹¹, the Supreme Court quashed the proceedings against the appellants and observed that the complaint was lodged under Section 498A of the IPC after three years of an ex parte divorce, based on a single incident occurring post-divorce lacked specific credible allegations against the appellants relatives and focused mainly on the husband's conduct. In the absence of any specific allegations against the relatives of husband, the Court held that proceeding against them would amount to a vexatious trial.

Together, these rulings demonstrate the judiciary's increasing recognition of the misuse of Section 498A. While the original intent of the provision was noble, its application has created a parallel injustice. Without statutory safeguards men and their families are being harassed by filling of fake cases.

Protection of Women from Domestic Violence Act, 2005:

The Protection of Women from Domestic Violence Act, 2005 was enacted with the aim of protecting women from violence faced within the four walls of their home.

Section 3 of the Protection of Women from Domestic Violence Act, 2005¹² provides the definition of domestic violence which states that:

Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

- Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, Verbal and emotional abuse and economic abuse; or
- Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

¹¹ *Sushila v. State of U.P.*, (2025) SCC OnLine SC 804 (India).

¹² Protection of Women from Domestic Violence Act, No. 43 of 2005, § 3, INDIA CODE (2005).

The act defines “aggrieved person”¹³ as any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the Respondent; and the “respondent”¹⁴ is defined as any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this act.

From this language it is clearly evident that the law was drafted on assumption that men are perpetrators and women are victims. While the aim was laudable, the perceived gender bias has attracted significant criticism. Many argue that the act is misused since men are natural offenders under it leaving male victims without legal recourse. This has sparked a nationwide debate on whether the act should be made gender neutral. The judiciary has overtime examined these concerns.

In *Sandhya Wankhede v. Manoj Bhimrao Wankhede*¹⁵, as the term respondent is defined to include an adult male person, the judiciary has been faced with the argument that an aggrieved person can only file a complaint under the Domestic Violence Act against an adult male person and not against the husband’s female relatives. However, in the aforementioned instance, the Supreme Court decided that the proviso to Section 2(q) did not exclude female relatives of the husband from the scope of a complaint that can be filed under the Domestic Violence Act. The court has taken a significant step by allowing complaints to be filed against women under the provisions of this Act.

A more complex situation arose in *Mohd. Zakir v. Shabana*¹⁶, A Single Judge Bench of Justice Anand Byrareddy, initially allowed a criminal petition filed by a Muslim man under Section 482 CrPC¹⁷ holding that he could seek relief under the Protection of Women from Domestic Violence Act, 2005. The petitioner alleged acts of domestic violence by his wife and her family. The City Civil and Sessions Court had dismissed his plea, opining that the Domestic Violence Act primarily favored women and did not provide recourse for male victims. Later on, appeal, the Karnataka High Court relied on the Supreme Court’s decision in *Hiral P. Harsora v.*

¹³ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(a), INDIA CODE (2005).

¹⁴ Protection of Women from Domestic Violence Act, No. 43 of 2005, § 2(q), INDIA CODE (2005).

¹⁵ *Sandhya Wankhede v. Manoj Bhimrao Wankhede*, (2011) 3 SCC 650 (India).

¹⁶ *Mohd. Zakir v. Shabana*, AIR ONLINE 2018 KAR 426 (India).

¹⁷ Code of Criminal Procedure, No. 2 of 1974, § 482, INDIA CODE (1974).

*Kusum Narottam Das Harsora*¹⁸, which had struck down the words “adult male” from Section 2(q) of the DV Act as unconstitutional for violating Article 14 of the Constitution. Post-deletion, the Court observed, the Act’s provisions were available to “any aggrieved person,” regardless of gender. Accordingly, it held that the petitioner’s complaint should not have been dismissed solely because he was male, and allowed the petition. However, by a subsequent order dated 28 April 2018, Justice Byrareddy withdrew the earlier judgment, terming it “patently erroneous,” and restored the petition for fresh consideration. The Court also directed that the earlier order not be hosted on the Court’s website. Thus, while the case briefly suggested recognition of male victims, the relief was short-lived.

The Supreme Court while quashing criminal proceedings against the accused in *Geddam Jhansi v. State of Telangana*¹⁹, remarked, “In the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the color of criminality.” Thus, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.

These decisions show the judiciary’s cautious approach while safeguarding women remains the prime objective of the act still the courts are cautious to the dangers of its misuse and the need for balance.

Dowry Prohibition Act, 1961

The Dowry prohibition Act, 1961 was passed by the parliament with the purpose to protect women from the dowry-related crimes. While the intention was noble but over the years women have been accused of misusing it to harass the husbands.

¹⁸ *Hiral P. Harsora and Ors. v. Kusum Narottamdas Harsora and Ors.*, (2016) 10 SCC 165 (India).

¹⁹ *Geddam Jhansi v. State of Telangana*, (2025) SCC OnLine SC 263 (India).

The Supreme Court itself has recognized this problem in several cases. For instance, in *Dara Lakshmi Narayana v. State of Telangana*²⁰, the Court clearly said, “a mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud.” The Court further said that the “inclusion of Section 498-A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife.”

A similar approach was taken in *Kahkashan Kausar v. State of Bihar*²¹, the Court ruled that husband’s relatives cannot be forced to undergo trial in absence of specific allegations of dowry demand.

The Bombay High Court, in *A v. State*²², was considering an application filed under Section 482 of the Code of Criminal Procedure under the Division Bench of Justice Anil S. Kilor and Justice Pravin S. Patil observed, “It is noticed that now a days in the proceedings arising out of matrimonial discord, there is tendency of wife to implicate the husband and his family members in the web of crime. The police complaint is considered in such matters as the only panacea to teach lesson to the family members of the husband. As such, only out of ulterior motive to settle personal score wife makes generalized and sweeping accusation unsupported by concrete evidence. As a result, even the family members of husband have to face the agony of criminal trial, when no prima facie case is made out against them.”

In *Rajesh Chaddha v. State Of Uttar Pradesh*²³, The bench expressed serious concern about the misuse of protective laws in matrimonial cases. “We are distressed with the manner, the offences under Section 498A IPC, and Sections 3 & 4 of the Dowry Prohibition Act, 1961 are being maliciously roped in by complainant wives, insofar as aged parents, distant relatives, married sisters living separately, are arrayed as accused, in matrimonial matters”. The term ‘cruelty’ is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least”. Justice Sharma noted that the trend of filing vague

²⁰ *Dara Lakshmi Narayana v. State of Telangana*, 2024 SCC OnLine SC 3682 (India).

²¹ *Kahkashan Kausar v. State of Bihar*, 2022 SCC OnLine SC 162 (India)

²² *A v. State of Maharashtra*, 2025 BHC-NAG 5298 (DB) (India).

²³ *Rajesh Chaddha v. State of Uttar Pradesh*, 2025 INSC 671 (India).

complaints without proper details weakens the case and raises serious doubts about the truthfulness of the allegations. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a complainant. The bench further said that a criminal case cannot proceed if key details are missing from the complaint.

These cases show that while the Dowry Prohibition ACT, 1961 was primarily brought to curb a serious social evil, but its misuse have created another problem. Courts have consistently stressed that only genuine and specific allegations should be entertained.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

This act was passed with the objective of protecting women from sexual harassment at their workplace. It aims to create awareness, make policies compulsory and provide a proper mechanism for redressal of complaints. The act was drafted with the sole focus of protecting women and therefore it expressly excludes men from its scope. This gender-exclusive approach denies men any legal recourse in case they face sexual harassment at work. Such an approach has been criticized as it undermines the constitutional principles of equality and fairness. In today's time, harassment is not confined to one gender only. A truly fair and credible framework should be gender-neutral offering protection to all without weakening women's rights. In fact, such inclusivity would only add to the legitimacy of the law.

Another problem is that there have also been cases where women have misused the act as a tool against men. A notable example is *Vinod Narayan Kachave v. The Presiding Officer (ICC) & Ors*.²⁴, an employee of a private bank, commented on a female colleague's long hair. Internal Complaints Committee (ICC) was formed to investigate the matter. The ICC submitted a report that found Kachave guilty of sexual harassment. He then appealed the decision before the Industrial Court in Pune, which dismissed his plea. This led him to challenge the decision before the Bombay High Court. The Court pointed out that the complainant did not initially see the comment as harassment and continued professional relations with Kachave after the incident. Additionally, it found that the ICC had not thoroughly examined the evidence. Justice Marne emphasized that the ICC report lacked proper analysis and did not confirm if the

²⁴ *Vinod Narayan Kachave v. The Presiding Officer (ICC) & Ors*, 2025 BHC-AS 12952 (India).

comment actually constituted sexual harassment. Justice Marne ruled that even if the allegations are taken as proved, no case of sexual harassment of the complainant was made out in the light of peculiar facts and circumstances of the present case. Therefore, the impugned judgment and order passed by the Industrial Court is indefensible and liable to be set aside.” The Bombay High Court set aside the Industrial Court’s decision and the ICC report, concluding that commenting on the complainant’s hair did not qualify as sexual harassment. This case shows how the law while made with good intentions can sometimes be misused and why there is need for reform to make the law balanced and gender-neutral.

Section 63 Bharatiya Nyaya Sanhita (Previously Section 375 IPC):

Section 63 of BNS, 2023 defines the offence of rape. The provision continues to perceive women exclusively as victims and men as accused. This means that if a man is sexually assaulted the incident is not legally recognized as “rape” and they are denied the remedy available to women survivors. Rape is one of the gravest offences in criminal law, as it violates not only the bodily integrity but also human dignity. By excluding men from its ambit, the law creates an artificial barrier to justice, which is contrary to the constitutional principles of equality under Article 14 and the right to dignity under Article 21. Such exclusion also reinforces the stereotype that sexual violence is a crime only against women which is far from reality.

There have been several discussions around how the law has also been misused in certain cases. For instance, in *Jagmohini vs State (GNCT of Delhi)*²⁵, the prosecutrix alleged that her neighbor committed rape and also attempted carnal intercourse “against the order of nature.” Initially, in her police statement and medical examination, no such allegation regarding carnal intercourse was made. It was introduced for the first time 12 days later in her statement under Section 164 CrPC. The trial court acquitted the accused, citing serious inconsistencies and contradictions in the prosecutrix’s versions. On appeal, the Delhi High Court upheld the acquittal, holding that the delayed introduction of a grave allegation without corroboration undermined the credibility of the testimony. The Court observed that false and exaggerated accusations in such serious offences cause irreparable harm to the accused’s reputation. It reiterated that conviction cannot rest on unreliable evidence and that misuse of stringent provisions must be discouraged. Similarly, in *Rajesh Sharma vs. State of Uttar Pradesh*²⁶

²⁵ *Jagmohini v. State (NCT of Delhi)*, ILR (2013) 5 Del 3433; 2013 (3) JCC 2155 (Del. HC Aug. 6, 2013).

²⁶ *Rajesh Sharma v. State of U.P. & Anr.*, (2018) 10 SCC 472 (SC).

court primarily addressed the misuse of dowry laws; the Supreme Court's observations are relevant to rape laws as well. It suggested conducting preliminary inquiries before registering certain criminal cases to prevent the harassment of innocent individuals.

In *Himachal Pradesh vs. Sanjay Kumar*²⁷ the court held that while reaffirming stringent punishment for genuine offenders, the Court acknowledged concerns about frivolous accusations. It noted that false cases undermine the credibility of genuine survivors and emphasized careful scrutiny during investigations and trials.

These judgements reflect the complexity of the issue. On one hand, protecting survivors of sexual violence with strong legal provisions, and on the other hand, safeguarding innocent individuals from false implication. To strike a constitutional balance between equality, dignity and fairness it is necessary that the definition of rape under Section 63 be made gender neutral. Recognizing men as potential victims would not weaken women's protection but rather ensure that justice is accessible to all survivors of such a serious violation of autonomy and dignity.

Section 69 Bharatiya Nyaya Sanhita, 2023

Section 69 of the Bharatiya Nyaya Sanhita, 2023 stipulates that if any man engages in sexual intercourse with any woman by making a false promise of marriage or by deceitful means, and such charge is proved against him, he may be punished with imprisonment for a term which may extend to ten years. The intent behind the provision is to prevent the exploitation of women through fraudulent inducement into sexual relations. However, the language of the section restricts protection only to women. This creates a significant gap as men too may be deceived into relationships on false promises of marriage, yet the law doesn't extend any remedy.

The judiciary has often dealt with cases where allegations of false promise of marriage overlap with accusations of rape. In *Pramod Suryabhan Pawar vs. State of Maharashtra*²⁸ the Court clarified held that consensual sexual relationships cannot be termed as rape unless the promise was false and made solely to exploit the victim. This judgment underscored the need for clear evidence of malicious intent. In *Deepak Gulati vs. State of Haryana*²⁹ court observed that consensual relationships, particularly those involving promises of marriage, are sometimes

²⁷ *State of Himachal Pradesh v. Sanjay Kumar alias Sunny*, (2017) 2 SCC 51 (SC).

²⁸ *Pramod Suryabhan Pawar v. State of Maharashtra*, (2019) 9 SCC 608 (SC)

²⁹ *Deepak Gulati v. State of Haryana*, AIR 2013 SC 2071 (India).

misconstrued as rape when the relationship turns sour. The Court clarified that a breach of promise does not amount to rape unless the promise was made with the intention to deceive from the outset.

Several High Court cases have further refined this principle. In *Prem Netam v. State of Chhattisgarh*³⁰, the applicant sought anticipatory bail after being accused of deceitful sexual relations. The High Court observed that the complainant was a consenting adult and that the FIR was filed seven months after the end of the relationship, suggesting retaliatory motive. The Court held that mere non-performance of a marriage promise, without evidence of dishonest intent from the beginning, does not amount to an offence. Similarly, in *Chandrakant Jalchhatri v. State of Chhattisgarh*³¹, the applicant, a gym trainer, was in a romantic relationship with the complainant. Allegations of sexual intercourse on false promise of marriage were made after the relationship ended. The Court observed that the complainant was an adult woman of sound understanding, and the relationship was clearly consensual and voluntary. There was no proof that the promise to marry was a calculated lie. On the other hand, in *Khamendra Sahu v. State of Chhattisgarh*³², the relationship had spanned over three years. The complainant accused the applicant of inducing her into repeated sexual acts with a marriage promise he never intended to fulfil. The Court found that the longevity of the relationship and the absence of coercion or deception suggested mutual involvement, not exploitation.

A particularly complex situation arose in *Bhupesh Thakur v. State of Himachal Pradesh*³³, dealt with a transgender complainant who had undergone gender reassignment surgery. The High Court ruled that Section 69 could not be invoked because the statute defines the complainant as a “woman” under Section 2(35) BNS, and at the relevant time of intercourse, the complainant was not legally recognized as female. The case marked a statutory limitation on the gender applicability of Section 69.

These cases demonstrate two things first is how courts exercise caution in distinguishing genuine exploitation from consensual relationships that later fail and second is that how the statutory framework continues to operate in a gender-specific manner, leaving men without

³⁰ *Prem Netam v. State of Chhattisgarh*, 2024: CGHC:41899 (Chhattisgarh HC DB, Oct. 23, 2024).

³¹ *Chandrakant Jalchhatri v. State of Chhattisgarh*, 2024: CGHC:46663 (Chhattisgarh HC DB, Nov. 27, 2024).

³² *Khamendra Sahu v. State of Chhattisgarh*, 2024: CGHC:46664 (Chhattisgarh HC DB, Nov. 27, 2024).

³³ *Bhupesh Thakur v. State of Himachal Pradesh*, 2024 SCC OnLine HP 4513 (H.P. HC, Aug. 30, 2024).

protection.

Section 144 Bharatiya Nagarik Suraksha Sanhita, 2023 (Previously 125 CrPC)

The purpose of this provision is to ensure that women who are genuinely unable to maintain themselves are not left without support. The idea was to prevent destitution and provide a basic safety net. But over time, its use has become controversial. In several cases, courts have noticed a pattern where educated and financially capable women seek maintenance despite being in a position to support themselves. Men on the other hand, are not given the same right under this section, even if they are genuinely unable to meet their needs.

The courts have repeatedly emphasized that the law is meant for protection, not for misuse. The Punjab and Haryana High Court made an observation that the purpose of Section 125 Cr.PC. is to protect abandoned wives who are unable to maintain themselves from vagrancy and destitution. The said provision cannot be permitted to be misused to allow able bodied wives to sit idly at home while the husband works, earns, looks after the day to day, emotional, financial and physical requirements, and maintains the minor children as also his other dependent family members,³⁴ Similar concerns were raised by Madhya Pradesh High Court in *Mamta Jaiswal Vs. Rajesh Jaiswal*³⁵, where the court noted that well qualified spouses desirous of remaining idle, not making efforts for purpose of finding out a source of livelihood, have to be discouraged. It is further held that a lady, who is fighting matrimonial litigation filed for Divorce, cannot be permitted to sit idle and to put her burden on the Husband for demanding pendente lite alimony from him during pendency of such matrimonial petition. The law does not help indolent as well idles so also does not want an army of self-made lazy idles. Everyone has to earn for the purpose of maintenance of himself or herself, at least, has to make sincere efforts in that direction. If this criterion is not applied, there would be a tendency growing amongst such litigants to prolong such litigation and to milk out the adversary who happens to be a spouse. The provision was enacted for needy persons who in spite of sincere efforts are unable to support and maintain themselves and are required to fight out the litigation jeopardizing their hard-earned money by toiling working hours.

³⁴ *Can't Allow Misuse of Section 125 CrPC by Wives Who Want to Sit Idle: Punjab and Haryana High Court*, BAR & BENCH (Sept. 30, 2024), <https://www.barandbench.com/news/cant-allow-misuse-section-125-crpc-wives-sit-idle-punjab-and-haryana-high-court>.

³⁵ *Mamta Jaiswal v. Rajesh Jaiswal*, II (2000) DMC 170 (M.P. 2000).

Other courts have also taken a firm stance. In the case of *Vijay Kumar Vs. Harsh Lata Aggarwal*³⁶ the Hon'ble High Court of Delhi has held that when Income of both husband and wife are almost similar and both almost equally qualified, there is no justification to grant interim maintenance to the wife. Also, in the case of *Manushree Vs. Sachin*³⁷ while rejecting the maintenance petition filed by the wife who is well qualified the court observed that law should not be allowed to be used to extort money, the court further junks woman's maintenance plea and imposed a cost of Rs. One lac on the woman, saying the proceeding u/s 125 CrPC was filed only to blackmail the Husband.

These judgements reflect a growing concern that a law meant to serve as a shield for the needy is sometimes being wielded as a weapon. The law was made to protect those despite genuine efforts, cannot support themselves. It was never intended to become a tool for exploitation or easy money.

Numbers and Narratives: The Present State of Men in Society

Although there is limited data available on this subject. It is still essential to analyze and interpret what we have. A recent study carried out by National Centre for Biotechnology Information was a community-based, cross-sectional study using multistage random sampling. A total of 1000 married men in the age group of 21–49 years were interviewed using the modified conflict tactics scale where, 52.4% of men experienced gender-based violence. Out of 1000, males 51.5% experienced violence at the hands of their wives/intimate partner at least once in their lifetime and 10.5% in the last 12 months. The most common spousal violence was emotional (51.6%) followed by physical violence (6%). Only in one-tenth cases, physical assaults were severe. In almost half of the cases, husband initiated physical and emotional violence. Gender symmetry does not exist in India for physical violence. Less family income, education up to middle class, nuclear family setup, and perpetrator under the influence of alcohol were identified as risk factors. Earning spouse with education up to graduation is the risk factor for bidirectional physical violence. Besides women, men are also the victims of gender-based violence. This demands the future investigation and necessary intervention on gender-based violence against men in India.³⁸

³⁶ *Vijay Kumar v. Harsh Lata Aggarwal*, CM(M) No. 539/2008 (Delhi HC Sept. 10, 2008).

³⁷ *Manushree v. Sachin*, Case No. 26/2016 (ADJ Saket Dist. Ct. Jan. 15, 2019).

³⁸ Jagbir Singh Malik & Anuradha Nadda, *A Cross-Sectional Study of Gender-Based Violence Against Men in the Rural Area of Haryana, India*, INDIAN J. COMMUNITY MED. 44, no. 1, 35–38 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6437789/>.

An RTI query filed with Gurugram police found that 43.6% of rape cases filed between 2020 and 2024 were specifically related to “false promise of marriage”, categorized as a deciding factor of rape under Section 376 of the Indian Penal Code (IPC), the data further said that 236 of the total cases were cancelled, indicating they were false cases as allegations were found unsubstantiated during the investigation. However, legal action was initiated only in 96 false cases, activists said, pointing to a lack of deterrence that may adversely impact investigation in genuine cases. As per NCRB data also 74% of all rape cases end up in acquittal of the accused. Now imagine your brother, father, son, or husband convicted in a rape case. That’s difficult to picture, right? But for those falsely accused, this is reality. The impact of such allegations on their mental health, career and entire life is enormous. Many such men in India live ostracized, in fear or even drive to suicide.

Take for example, a case of Uttar Pradesh where an accused Vishnu has spent his 20 years of life in jail. But later the Allahabad HC acquitted him, the court observed that the trial court had ‘materially erred’ while convicting him. The Court’s acquittal was based on the medical examination report which found no semen or injuries on the prosecutrix, who was five months pregnant at the time she claimed to be raped. After he was released in one of his interviews he told: “I have been in jail for 20 years what should I look forward to? My body is broken and so is my family. I only have a younger brother. I am not married. Look at my hands there are blisters from working in the jail kitchen,”. “Today, before leaving, I got Rs 600 from the jail administration. That is all I have,” he told in an interview these were the words of the men whose 1/3rd life have been destroyed by a single lie of a women. The men have lost two decades of his life behind bars for a crime he never committed – what remains is not freedom, but a lifetime of pain. And the girl who filed false cases against him is yet to be punished. Remember, he is not alone there are many such men whom lives have been destroyed due to false accusations.

One other compelling case, was of Sarvjeet and Jasleen Kaur case on 23 August 2015, they had a scuffle, following which Jasleen had threatened him with dire consequences. Subsequently, she uploaded a Facebook post, alleging that Sarvjeet had molested him, Following the accusation, people reacted almost immediately to the same, then Delhi CM was also among them but nobody even cared to analyze the case rationally. However, after 4 years of suffering, Sarvjeet was acquitted of the charges. But there were no actions taken against Jasleen. All these 4 years when Sarvjeet was fighting in the court, the girl was living a comfortable life. He lost

everything – respect in society, his job, money, friends and dignity. What did she truly lost? All those people who passed their judgments on social media even before the case went for trial should ask a simple question from themselves are they not equally responsible for ruining a life of innocent men. Don't they have any responsibility to rationally analyze the case before pointing the finger on anyone's character.

In a nutshell, false rape cases filed for the nefarious agenda have become a menace to the nation. There is no dearth of cases evidencing that violence against men is rising at an exponential rate. It vindicates the weaker position of Indian men in the judicial system today which considers women as the victims and men as the aggressors. The laws meant to protect genuine victims are being misused by some opportunistic women. It is high time people realize that crime has no gender and before convicting a man on false accusations, investigations need to be done thoroughly.

Way Forward: Reforming the Legal Framework

Given the prevailing adverse conditions faced by men, it is evident that urgent and appropriate measures must be undertaken for their protection. Men and women constitute the two wheels of the societal chariot, and their harmonious functioning is essential for the proper operation of society. Any harm to one inevitably disrupts the equilibrium of the whole. Therefore, in the interest of societal well-being, relevant laws must be made gender-neutral. Men should also be granted the right to access justice in instances where they are subjected to such forms of violence, and the perceived gender bias that predominantly categorizes them as accused must be effectively dismantled

A. Stringent punishment should be awarded in case of false cases:

The data clearly illustrates the prevalence of false cases filed by women against innocent men. Even when the judgment is delivered in favor of the accused and the court determines that the complaint was maliciously instituted, it is rare for the complainant to face any legal consequences. This lack of accountability fosters a sense of impunity, encouraging such litigants to misuse the law with the assurance that they have nothing to lose, even if the truth emerges. Such unchecked misuse distorts the original legislative intent of these provisions, which were framed to protect genuine victims, and erodes public trust in the legal system. It is imperative for the judiciary and legislature to take proactive measures to curb this blatant misuse of legal provisions by ensuring that individuals who weaponize the law for blackmail

or personal vendettas are duly penalized.

B. Establishment of Dedicated Support Institutions and a National Commission for Men:

To effectively address the issues faced by men, there is a pressing need for the creation of a comprehensive institutional framework dedicated to their welfare. This framework should include the establishment of state-funded support centers in every district, providing services such as legal aid, counselling, temporary shelter and rehabilitation for male victims of domestic violence, false accusations, and other forms of abuse. Alongside these, a National Commission for Men must be constituted as a statutory body with powers similar to those vested in the National Commission for Women. This Commission would act as the nodal authority for receiving complaints, conducting independent investigations, recommending legal reforms and advising the government on policies to ensure gender neutrality. Such a dual mechanism grassroots-level support centers combined with a centralized statutory body would ensure that male victims are not left without recourse, while also creating a credible platform for policy advocacy and systemic change.

C. Gender-Neutral Legislative Amendments:

A fundamental step towards ensuring equality before the law is the comprehensive review and amendment of existing gender-specific provisions to make them gender-neutral in both language and application. Many current statutes, particularly in the realm of criminal law, operate on the assumption that only women can be victims of certain offences, thereby excluding men and transgender persons from seeking justice in similar circumstances. Provisions such as those relating to sexual harassment, domestic violence, and offences involving deceit in relationships must be restructured so that they apply to any person, irrespective of gender. The definition of offences should be revised to focus on the act and its impact rather than the gender of the perpetrator or victim. This approach not only aligns with the constitutional guarantee of equality under Articles 14 and 15 but also prevents misuse by removing presumptions of guilt based solely on gender. By adopting gender-neutral drafting, the legal system can extend protection to all citizens equally, ensuring that justice is determined by facts and circumstances rather than preconceived gender roles.

D. Judicial Precedents Safeguarding Men's Rights:

The judiciary plays a pivotal role in shaping the interpretation and application of laws, especially in areas where legislation is silent or gender-biased. In order to protect men from

wrongful prosecution and discrimination, courts must actively develop progressive jurisprudence that recognizes men as potential victims in cases traditionally viewed through a female-centric lens. This can be achieved by delivering reasoned judgments that explicitly acknowledge the misuse of gender-specific provisions, laying down safeguards such as stricter evidentiary standards, preliminary inquiry mechanisms, and guidelines for the police before making arrests in sensitive cases. Furthermore, higher courts can issue binding directions to trial courts to ensure that principles of natural justice and presumption of innocence are upheld regardless of the accused's gender. Over time, such precedents would not only provide relief in individual cases but also serve as persuasive authority for legislative reforms, thereby creating a legal environment where equality is maintained in both principle and practice.

E. Curb on Media Trials and Ensuring Equal Treatment of Accused Persons:

The role of the media in reporting criminal allegations is crucial for public awareness, but it must operate within the bounds of fairness, accuracy, and the presumption of innocence. A concerning disparity exists wherein the identity of a female accused is often protected, while male accused persons are frequently subjected to public vilification through the publication of their photographs, names, and personal details even before the judicial process has commenced. This practice not only prejudices the court of public opinion but also inflicts irreversible damage to reputation, career, and personal life—especially in cases where the accused is later acquitted. There is a pressing need for statutory guidelines or amendments to existing media ethics codes mandating that no accused person's identity be revealed until formal charges are proven in court, regardless of gender. Additionally, penalties for media outlets that engage in biased or prejudicial reporting should be introduced, ensuring that the fundamental principle of “innocent until proven guilty” is upheld equally for all. This reform would not only safeguard individual dignity but also preserve the integrity of the judicial process.

The media has a responsibility to provide information to the public without undermining the presumption of innocence. However, a disparity persists wherein the identity of female accused persons is protected, while male accused persons are often publicly exposed through photographs and personal details even before trial. This practice leads to social ostracism, reputational harm, and prejudice, even in cases that later result in acquittal. To address this, statutory guidelines should mandate non-disclosure of the identity of any accused person until conviction, irrespective of gender. Penalties for media outlets engaging in prejudicial reporting should also be enforced to ensure fairness and uphold the integrity of the judicial process.

Conclusion:

The laws enacted to secure gender justice in India were born of urgent moral and constitutional demands: to correct historic discrimination and to protect women. Gender-specific provisions, intended to act as shields, have in practice sometimes functioned as swords. Judicial pronouncements from Arnesh Kumar to Shivangi Bansal and numerous high-court rulings have exposed patterns of misuse of these laws which inflict severe psychological trauma on men which are falsely implicated. This paper is not written to present arguments against protective legislation per se, rather it aims to raise the demand for equal protection to all genders be it male or female. The state must prevent and punish genuine gender-based harm while also preventing and deterring misuse. If India is to truly honor its constitutional commitments it must move beyond institutionalized prejudices that perceive men solely as accused and women as victims. True gender justice can only be achieved when our laws will protect human dignity without considering the gender of the victim.

