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MISUSE OF MATRIMONIAL LAWS IN INDIA: A LEGAL STUDY

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Abstract

The issue of Women's Rights and family law reform has been increasingly entangled within the polemics of politics and minority rights. It is true that the hardships and the sufferings experienced by woman of all communities, minorities as well as majority cannot be overlooked with the help of persuasive or effective freedom of religion. The life on an average woman has always been difficult and pitiable due to existing social customs practices of time. But today the laws are such that a woman can easily misuse it for her purpose and benefits.

Although women protective laws have been justified with respect to status of women in olden times, but as we all know the world has changed and so on the behavior of women. Those women who are used to be subjected to house taker now are taking steps ahead along with men. The law on the other hand has not changed proportionately. The society has progressed to such an extent that criminality amongst women have achieved a higher stand in society and certainly have become influential but with respect to law is still where it was in olden times. The repeatedly misuse of legal shield can lead to new legal terrorism. So there is need to change law relating to women. It is not fair to pre-establish that domestic violence happens to wife only.¹

Introduction

While making special laws for women, the legislators must think of victimized sect of the society in male line also. Laws like, Indian Penal Code section 498-A and Domestic Violence Act, 2005 have number of provisions to intimidate men and their families. The effect of these laws is unjustified power in the hands of women for blackmail and extortion in domestic disputes which irreparably damages the life of husbands and their relatives and sometimes also becomes the reasons for their death.²

In India and elsewhere in the world, there are no special laws for male. There is Dowry Prohibition Act, Section 498A in Indian Penal Code i.e. offence of cruelty by husband and relatives of husband; section 125 in Code of Criminal Procedure i.e. maintenance for wife;

¹ Ajay Kumar Singh, "Dowry Problem In India: Rethinking Anti-Dowry Laws" Cri.L.J, September'2009, p.256,

²<http://www.498a.org/legaltorture.html>, visited on 03.06.2022

protection of women from domestic violence, in Statute books. But there is no protection of men in Domestic Violence Act, 2005, there is no provision like Section 498B in Indian Penal Code, there is no provision like Section 125A in Code of Criminal Procedure i.e. maintenance to husbands under the Act. Rather the specific laws for women are misused by errant women and police officers. The cry of victimized husbands and their relatives is not heard either in courts or in society. The practice says that real purpose of the women – related specific laws are misused and thereby husbands suffer for no fault.³

The section 498A of Indian Penal Code has become frustrated on the feminist stand point also. Rapid use and heavy misuse of this section has also failed to fulfill the object of social welfare and gender justice. The random arrest of mother-in-law and sister-in-law in the name of cruelty under this section has proved that to protect one woman it has put in danger and made vulnerable two more women.⁴

1.1. Historical Background:

In the era of man's ascendancy to power, the institution of marriage came into existence as an exclusive union. It is believed that wife is *Ardhangini* i.e. Half of man. Man is only half not complete until he marries. Wife is not *Grihapatni* but also *Dharampatni*.⁵ In the Ramayana the wife is said to be very soul of her husband.⁶

The institution of marriage is an oldest social institution and provides a foundation on which whole superstructure of civilization and prosperity is built. Stability i.e. a happy, cordial and harmonious relationship between couples has been considered as one of the most important condition for this institution in civilized societies-ancient as well as modern. However due to emergence of industrialized societies and result of social awareness amongst people, especially in females about their right of equality and personal liberty, the meaning of stability in the context of marriage has been changing gradually in different span of times.⁷

³P.K.Das, *Law Relating To Cruelty To Husband*, 1 (2008)

⁴Dr.Partha Pratim Mitra, "A New Look On Matrimonial Cruelty Within Criminal Law", *Indian Bar Review*, Vol.XL (1) 2013.

⁵Paras Diwan, *Modern Hindu Law*, p.63-64 (2007),

⁶Ramayana,11-37

⁷Prof.Ajay Kumar, *Institution of Marriage-Judicial Approach*, AIR January 2010, p.6.

In India, it has its roots in medieval times when a gift in cash or kind was given to a bride by her family to maintain her independence after marriage. During the colonial period, it became the only legal way to get married, with the British making the practice of dowry mandatory.

In order to protect helpless women who were regularly getting abused and beaten and tortured by their respective husbands and husband's family members, multiple changes were made to the different statutes. In 1983, under Indira Gandhi's government, India came up with Section 498A in the Indian Penal Code to protect married women from becoming a victim of cruelty at the hands of their husband and their family. When established, the law aimed to protect women from dowry-related harassment from their husbands. Section 498A and other subsequent provisions were designed and inserted into the legal framework by the lawmakers with the idea of protecting women from cruelty, harassment and other offences. But when cross-investigations are performed to test the validity of these laws, the number of acquittals was passed due to the misuse of the provisions. Accordingly, misuse of legal protection to the women diminishes its true credibility. That is one of several reasons for calling the said laws anti-male laws. Although there are widespread complaints, and even large-scale misuse has been recognized by the judiciary. Since the Section was subject matter of controversy, the Hon'ble Supreme Court observed that it was often being "used as weapons rather than shield by disgruntled wives."⁸

1.2. Review of Literature:

'Research', in simple terms, can be defined as 'systematic investigation towards increasing the amount of human knowledge' and as a 'process' of identifying and investigating a 'fact' or a 'problem' with a view to acquiring an insight into it or finding an apt solution therefore. An approach becomes systematic when a researcher follows certain scientific methods. The researcher has tried his best to provide a detailed analysis of the abuse of legal protection by analysis of the misuse of legal shield by women and how it affects the men. Also, the solution to this menace has been given, both judicial and societal. While compiling this research along with the content, the researcher has gone through with so many literatures available online and in books, Journal, judicial precedents, articles, magazines. Some of the literature besides other

⁸*Arnesh Kumar v. State of Bihar and another (2014) 8 SCC 273*

literature that has been consulted while compiling this research along with the content is as follows:

V.K. Dewan,⁹ (2009) in his book, *Law Relating to Cruelty and Offences Against Husband* is discussed, Why marriages fail? There cannot be any one answer to it. Reasons vary and differ. As individuals, we all have personal desires which at some point of marriage must be compromised. But often either refuses to compromise. Trust is the binding force that defines the worth of a valid relationship, which is found much lacking these days. Financial aspects, addictions such as alcoholism, drugs, gambling and sex soon take over and create rifts in the relationship.

Proffulah Padhy's,¹⁰ (2005) book *Social Legislation and Crime*, addresses a set of intriguing and complex questions in the study of law and society. How does legislation affect the behaviour of citizens? What role do attitudes play in rule following and under what conditions can legislation influence these attitudes? It juxtaposes the approaches to this set of questions. It deals with one of the fundamental questions of the interdisciplinary study of law and the possibilities and limitations of the legislature.

P.K.Das,¹¹ (2008) in his book *Law Relating to Cruelty to Husband* discussed that now the law enforcing authorities and the judges are well-versed with the malicious acts of wives who unnecessarily buckle their husbands with many falsifications. Even the Supreme Court and High Courts have shown serious concerns about the nature of errant wives while interpreting the veracities of the cases in hand. Many husbands are still behind bars on account of wife's allegations. But at present such errant wives are not getting success due to the practical view taken by judiciary with regard to the nature of offence, occurrence of offence, character of wife, execution of case by police officers, status of wife and the effects of judgments on innocent husband and upon their families besides the social status of husband.

Anshul Sehgal,¹² (2011) Misuse of 498- A is going on high percentage. The main cause is that government policy to protect women under 498-A. Women by misusing it harass her husband and demand a big amount from them. They blackmailing husbands demand to cover all the needs they wish such as ornaments, money. In the true sense they extort the husband. But

⁹V.K. Dewan, *Law Relating to Cruelty and Offences Against Husbands*, 2009

¹⁰Proffulah Padhy, *Social Legislation and Crime*, 2005

¹¹P.K.Das, *Law Relating to Cruelty to Husband*, 1 (2008)

¹²Anshul Sehgal, *Sec.498-A of IPC code a weapon in the Hands of Vamps.*(2011)

when the true cause is investigated the cases has no any base. The percentage of such cases is now increasing in metropolitan cities. Through IPC Sec. 498-A, the government is actually protecting those women that indulge in perjury, extortion, blackmail and harassment of their husband and in laws, 98% are false cases. The government policy is to protect the women. If any wife not interested in her husband or she thinks that she is not interested in living with her in laws then she refuses to do household work. I they tell anything about the work or if the in laws make any complaint about the behavior of the daughter to her parents, she goes to her parent home and files a suit of false harassment by her husband and in laws. In addition, she makes a complaint in police station that her husband and her in laws harass her and do mental and physical cruelty with her for the dowry. As section 498- A is in favor of women, police also become helpless, they have to register the complaint and, in some situations, they have to arrest her husband and his relatives. In such arrest gender persons and innocent children suffer unnecessary mental and physical stress. Sometimes wife makes a false complaint of dowry demand to extort her husband and in laws. She tries to blackmail her husband for money. To take a complaint back she demands a lot of money and husband become helpless. Husband has to give the money as per the demand of his wife to close the matter. Such women are the vamps in the society who extort their husbands and harass unnecessary to their husbands in lust of money.

Bassi,¹³ (2013) *R. M. Malkani v. State of Maharashtra* - 22nd September 1972, Phone conversation is considered as evidence if the conversation is relevant to matter, identification of voice, and accuracy of tape. By studying this case the author explained the importance of the evidences such as phone conversation but some terms are there also mentioned to consider it as a evidence to punish the offender. The conversation must be between husband and wife or the woman suffered from violence and between her in laws. The voice must be clear that the words of conversation should be understood. Recording of the speech in between the accused and the petitioner can be considered as the evidence in domestic violence cases. Domestic violence is the violence only between husband and wife and his relatives. The conversation on phone must be between the husband and wife only. The conversation must be related to the matter or the subject. The conversation must be related to the issue of domestic violence between them only. The voice of the conversation must be clear that all the words must understand clearly by the

¹³**Bassi**, “*Mobile Phone Recording is Evidence in Domestic Violence cases*”, Page 1–5 (2013).

listeners. The language must be also understood by the court. The conversation may be between the parents of husband and wife but related to the domestic violence between the spouses.

Bernard, et.al,¹⁴ (1990) Domestic violence is pervasive and can happen all classes of men and women. All the barriers such as age, income, cast and culture can be crossed in domestic violence. The aim to publish this paper is author wants to focus on all the aspects of the domestic violence. It can happen in all classes of men and women. The educated and uneducated men and women also suffer from cruelty. It happens normally in all types of societies. The percentage may be high in illiterate peoples but in literate and highly qualified people also suffers cruelty. The causes of domestic violence in educated and uneducated people may be different. It can happen in all the religions. Domestic violence has no bar of income source. The women and men both are earning but besides this they are fighting with each other. The causes and remedies are also available. There is need of training, education, research, and shelters. By education, as educated men and women can understand by counseling and can remove the misunderstandings between them easily and early, it is easy to solve the problems between the educated spouses. They become to make compromise by small efforts so it is easy to reduce the domestic violence between them. Training to the police is also important. It can help in providing the help to the victims. The cases of such domestic violence are handled firstly by police. So police must have the knowledge how these cases are handled. The training to them of handling such cases is given to the police. There is need of further research. There is necessity to find the new remedies to solve the cases of domestic violence. The shelter homes are playing the main role in supporting such victims and their children. They provide moral support, financial support. In shelter homes they with medical treatment, moral support provide light work to the victim according to the skill of that victim. The medical treatment helps the victim to recover physically and mentally. By treatment the victim comes out of the disturbed condition of the mind. The victim can get double profit, as she gets medical treatment with moral support and financial support and work to earn money which can be used after then recovery. The money earned by the victim in shelter homes is given to the victim at the time of relief that money is used by her to live in future. The efforts made at international, national and regional level. All these organizations are engaged in helping the victims of domestic violence.

¹⁴**Bernard, et.al,** “*9th Commonwealth Law Conference Papers*”, Violence and the family, Auckland, New Zealand: Commerce Clearing House, Page 257-261(1990).

Bissessar et.al,¹⁵ (2000) The legislative policy introduced in Trinidad and Tobago in 1991 for domestic violence. It was reenacted in 1999. It was supposed that Domestic Violence Act help in controlling the domestic violence by laying down a legislative framework, sufficient account was not taken of the domestic situation. The factors that give rise to crimes of violence there is need to provide support. The act is not amended and is not implemented powerfully. The number of cases was not reduced and it remained continuous. There is needed to lay down the legislative framework. There is need to provide financial support to the victims. The shelter must be provided to the victims suffering cruelty. The policies of the act were good but the error in implementation is there. The beauracatic machinery of such states was ill prepared to provide the necessary services outlined in the act. This only suggests that the domestic violence policy was adopted nearly wholesale from the developed countries and also implied but the policy was not well thought out as for the implementation is concerned. It means that the policies are planned very well in nature but the implementation is not effective. It denotes that their necessary improvement in implementation of the act. The protective measures given to the victims; many provisions are there to help the victim but the organizations are not working properly. The organizations are not so serious about the domestic violence victims. They sometimes neglect the victims in providing them necessary help. The money provided for the welfare of the victims is misused by the organizations. The real victim remains desert from such facilities. The facilities given to the victims must be given to them without bias by the organizations.

Blanc, et.al,¹⁶ (1990) Author focuses on the problems of domestic violence against women in Dominica. The legislation which help to protect the women against violence. The protective measures adopted by the government and NGO aimed at dominating violence against women. There are many such protective orders helping such victims suffered and suffering the domestic violence. These acts of cruelty result in physical and mental effects on the victim. The organizations are engaged themselves in protecting the women who are the victims of such cruelty. The legal aids are free of cost for the victims. The financial support is also given by these organizations to the victims. The proper help for the procedure of the court is given by such organizations. The women who were not known about the procedure of the court,

¹⁵**Bernard, et.al,** *“Policy transfer and implementation failure: A review of the policy of domestic violence in Trinidad and Tobago”*, Caribbean journal of Criminology and Social Psychology, Vol.5,nos.1&2, Page57-80(Jan/Jul.2000).

¹⁶**Blanc, et.al,** *“National report: Commonwealth of Dominica. Inter-American Consultation on Women and Violence, WashingtonDC,USA, Page 19, (17-20 July, 1990).*

such organizations help such victims and help them to proceed. Advocates are ready to help to such victims free of cost. They are engaged themselves in helping the victims to proceed in legal matters. The victims suffering from the mental torture and physical attacks from her husband in which there is threat to her life, need moral support and protection. These organizations help to such victims by giving moral support and sometimes financial support.

Bruester M. P.,¹⁷ (2003) Domestic violence occurs for many causes. The main cause may be economic abuse. The conflicts between the spouses generally occur for money. If the husband is not earning money and only spending money from his wife then automatically wife will not keep silence she can talk to her husband in abusing language and in state of anger husband can beat her without any mistake. Economic abuse may involve preventing a spouse from resource acquisition limiting the amount of resources to use by the victim or by exploring economic resources of victim. The cause for domestic violence may be economic conditions of the family or financial conditions of the partners. The girl from rich and prosperous family when get married with the middleclass boy , then there are chances to develop domestic violence due to different financial conditions. As the girl has habit prosperously and without any household work, after marriage she has to do all the household work and she get irritated unnecessarily. Actually she knows all the conditions in her husband's family before the marriage and when she refused to adjust with this condition there are chances to develop the domestic violence. As husband is unable to provide these facilities and request his wife to make an adjustment with the situation and if wife refuses, then the entire fault is of wife. The wife sometimes leaves the matrimonial home for this reason and it causes the mental torture to the husband. Sometimes husband is not working and his wife is earning then husband demands money daily and this causes mental cruelty to the wife. Husband can beat her for money. There are so many causes of domestic violence.

Burnett-Stevens, et.al,¹⁸ (1998) The paper focus on the problem because women suffer the spousal abuse. Mostly women suffer such intimate partner violence. But they are not ready to make a complaint against husband and in laws. When they interviewed, they said that they have low-self-esteem and they are getting economic benefits derived from them. This means women are not earning and they are dependent on their husband for basic needs. The husband are

¹⁷**Bruester M. P.** "Economic Abuse", Journal of Family Violence, Page 207 –217, (2003). ¹⁸**Burnett-stevens, et.al,** *Influence of Family Relations on Tolerance to Spousal Abuse: Perceptions of Abused Women* ", vii, Page95, (1998).

expending money to complete all the basic needs of their children and fulfilling all the requirements of their children so for the welfare of children women have to suffer all the cruel acts of her husband. By group discussion it is found that many women have no way without suffering the cruel acts of husband. They are tortured daily by verbal abuse. They are ready to live with family after all the acts of cruelty of her husband only for the children.

Clarke, et, al.,¹⁹ (2003) The article aimed that domestic violence programming is most important in eradicating the problem. The main responsibility for domestic violence eradication would lie on the governmental agencies related to the problem. The related governmental agencies are the mainstream that can help and promote eradication of domestic violence. The government's policies are made by such agencies are applied all over the state or country. So it is helpful to eradicate the domestic violence problem. Only national machinery for women and police cannot do the strong acts for solving the problem. They can help to remove or stop such type of cruelty, but when the policies made by government and it are implemented by women forum or commissions and police then it become very strong. It can become very helpful and effective to stop cruelty. So the implementation by government policies becomes more effective to eradicate the problem of domestic violence.

Danial Brokoff,²⁰ (1997) The nature of domestic violence may be different according to the case. Some injured by weapons, some are beaten by hands; somebody may suffer from strangulation by her husband. Some persons were suffering from repeated attacks. From 138, 62 are cases of domestic assault, in 42 involved weapons, 11 resulted serious injury, 55 victims reported previous assaults by their current assailants. The scene of domestic violence is different in different houses. The nature of cruelty is different in different families according to the financial status and social status of the family. The nature of domestic violence is different in educated spouses and it is different in illiterate spouses. Some cases of physical cruelty and some are of mental cruelty. In some cases both the mental and physical cruelty involves. Some victims are beaten by their husbands, some are strangulated. Somebody get injury by weapons. Some cases are suffering from small injuries and someone has to suffer grievous injury which

¹⁹**Clarke, et, al.** (Aug.2003), *Changing Culture, Advancing Rights: The Need for a Mainstreaming Approach to Domestic Violence: The Need for an Integrated Response*, Gender Dialogue, Issue 2, Page5-7.

²⁰**Danial Brokoff**, "Characteristics of Participants in Domestic Violence Assessment at the Scene of Domestic Assault", *Domestic Violence Against Women*, Vol. 277, Page 1369-1373, (7thMay, 1997).

in future causes permanent deformity or sometimes death. Another nature or type of cruelty is mental cruelty. In this type, in some cases only taunts are given to her. Somebody may suffer from the abusing language and somebody may be deserted from talking. Some persons are suffering only single act of cruelty and somebody has to suffer the continuous acts of cruelty. The nature of cruelty and domestic violence depend upon the economic, educational status of both the families. It also depends on the family background.

Derothy Thomas, et.al,²¹ (1993) Complaints are registered in large numbers but the number of cases of which FIR made are very less in number. Many cases are not forwarded by police for further procedure. The number of convicted persons are also very less because many cases are withdrawal by the women afterwards. 40000 complaints registered by women, only 300, less than 8% forwarded to the court proceeding by police and only 2 men convicted and sent to prison. Many cases are registered under the domestic violence. Firstly, the complaint is registered in the police station by victim. But there are many cases of which FIR are not made by police. Only some of these cases FIR are made. The cause of this is that many cases are registered in anger by the parties when she suffers mental and physical cruelty. After some days the complaint is taken back by the wife. The wives become ready to take complaint back registered previously. Many complaints are made but only some of them are forwarded by the police. Most of the cases are mutually compromised. By counseling the parties become ready to live with each other by making compromise. So in these cases there is no question of FIR. The number of cases of which FIR are made is automatically reduces due to mutual compromise. As the number of cases forwarded is less, the number of convicted persons automatically reduces. Generally, wife becomes ready to compromise easily because she does not want to leave the matrimonial home. When the limits of the cruelty are passed by the husband and in laws then wife to teach the lesson to her husband and her in laws, make a complaint in police station. The police by threatening and sometimes by using force tell to the husband and her in laws not to behave like this. In family court all the cases are not taken directly for hearing. First when the suit is filed by anybody from the spouse, it is kept aside for six months. In between these six months the spouses are sent to the counselor related to the family court for counseling. The family court tries to make a compromise through the counselor. Many of the cases get compromised and the number of cases in court reduces.

²¹**Derothy Thomas, et.al,** “*Domestic Violence as a Human Rights Issue*”, Human Rights Quarterly in 1993, Page 36-62, (1993).

E. Gracia,²² (2004) The author focuses on most of the cases are not reported why domestic violence occurs. 25% are affected but only 2.5% to 15% are reporting their conditions. Rate of reporting the cases are very less due to fear of physical injuries, due to fear of death. Generally, women's tendency is that they do not want to harass their father and mother and due to the habit to suffer all the problems caused by in laws, the rate is low. If they register case but are not interested in, what is exact cause of behind this domestic violence? The exact cause of domestic violence cannot be determined by the police. Number of cases is registered daily and the nature of cases is different so the exact cause cannot be determined. The cause in one case cannot be the cause of cruelty in another case. In every house domestic violence occurs but the severity of that depends on the circumstances of that family and nature of the family members. Sometimes wife has habit to suffer the acts which are not so harsher and she neglects the small acts. There are many unreported cases and the exact cause if that cannot be determined. Many women are suffering from cruelty but all of them do not come to the police station to register the complaint. So the number of cases registered becomes less. In some acts of cruelty women cannot talk freely why domestic violence occurs. Because of the social status of the families the wife is not ready to expose the exact nature of cruelty and cause of cruelty as in sexual harassment by her husband. So, it is difficult to find out the exact cause of the domestic violence. Generally, many women are not ready to give any type of tension to father and mother so they are not ready to make a complaint in police station. In such situation they only suffer the acts of cruelty. They do not want to give physical and mental stress to the father and mother who are aged. Sometimes husband threatens her not to talk or expose the matter to her relatives. So due to fear of death she is not ready to file a suit against her husband and in laws. So, to avoid further physical and mental torture they keep silence about the acts of cruelty by husband and in laws.

Felson, et.al,²³ (2007) The harassment done by her wife to husband generally neglected due to the misunderstanding that wife cannot harass her husband unnecessary. Even husband contacts police and make a report about the harassment, police also neglect it and not show interest in making a FIR because they also think that how woman can harass the man. Some studies have shown that women who assaulted their male partners were more likely to avoid arrest even male victims contact police. Harassment done by wife to the husband always neglected by the police.

²²**E. Gracia,** "Iceberg Problem, "Iceberg of Domestic Violence", Vol. 58, Issue 7, Page12, (2004).

²³**Felson, et.al,** "Violence Against Men", Domestic Violence Against Men, Page436, (2007).

Police are not interested in registering the cases of cruelty against wife by husband. They think that wife cannot act with cruelty with her husband. Due to physical strength of men wife, it is supposed that wife is unable to do cruel act with her husband. Due to this view of the police, they are not interested in registering the case of cruelty to husband. They do not make FIR due such misunderstandings. Sometimes husband is suffering from cruelty daily by his wife and under mental stress. If he comes to file a complaint against his wife he being neglected by police again he has to suffer mental stress by police. Due to this behavior of the wife and negligence of the police men can come under mental stress and depression. Sometimes husband lose his mental control and start to behave irregularly. He in depression makes a suicide. He to forget all these acts by wife can become addict of drugs and he come in contact with bad habits which in future can cause mental and physical disorders to him. So, police and all the protective orders must be as serious about cruelty with men.

Hosein, et.al,²⁴ (1996) The study focuses on the subject that why women stay in abusive relationship. There are many causes such as they live because of complex and interwoven sociology and psychological factors. There are remedies for the domestic violence which are rudimentary. There is great need of reorganizations and co-operation among the various organizations. When the women are interviewed and asked that why they suffer the domestic violence and live with such a partner who harasses them daily physically and mentally. Then they answered that they are tolerating all the cruel acts of husband because of their children. The husband providing all the facilities to the children. The husband without any problem completes the basic needs of the children so they are living in such relationship for the welfare of the children as they themselves are unable to fulfill the basic needs of their children. So, there is need to educate the women and to make them independent as they by earning some money and become able to complete the needs of their children. After that they can be free from such abusive relationship. There is need to reorganize the protective orders for the counseling husband and in laws not to behave like this with wife. Many women ready to tolerate all the cruel acts of husband for the sake of children.

²⁴**Hosein, et.al,** *“Wife Battering – A study of the Reasons why women stay in abusive relationship (legal and common) and a focus on the instruments which are presently in place and those which can be implemented to alleviate its occurrence in Trinidad and Tobago”* Page77, (1996).

Hoyle, et.al,²⁵(2002) Police think that always men are physically strong than women, it is true but they cannot think that woman can harass the man by using abusing language daily and not providing him proper food and refuse for sexual contact for many days. Due to this reasons man get harassed and make a complaint but it not taken so seriously and sometime man does suicide due to this daily routine which is unbearable to him. Police doesn't treat domestic violence against men as a serious crime because of physical strongest of men. Police are not interested or take cases of cruelty against me so sincerely and seriously. Police thinks that men are always physically strong than women. But women can harass mentally to their husbands. Police neglect the mental cruelty in men also. Sometimes the cause of cruelty is such a nature that men cannot tell this cause openly such as daily refusal for sexual intercourse by his husband. If her husband comes at home after work his wife refuses to give him water or tea. She neglects him and not interested in doing the work of her husband this may lead mental torture to the husband. She is not interested in serving to her husband. She doesn't love her husband and she not behave with love with her husband. Sometimes she deserts her husband from many things. Men need sexual satisfaction from his wife because it is a part of marital life, but wife refuses to give such physical satisfaction to her husband and due to such acts husband has to suffer physical and mental stress. In such situation police also do not concentrate to men cruelty and it again leads to mental and physical stress to men and men due to this daily harassment can end his life.

1.3. Scope of Study:

This research specifically deals with the biased nature of laws/legal statutes towards women and how they misuse this shield for acquiring benefits and harassing the men. The law is positively biased towards women, from the availability of reservations to the constitutional provisions. The research focuses on addressing the issued by enumerating certain laws that are misused at the blink of an eye by women which results in the destruction of man's career and life. Apart from these provisions, there are many more laws like rape including marital rape, harassment, fraud, defamation that are considered as male-perpetrated and there aren't sufficient evidences and judicial sanctions to change this perspective.

The research deals with the interpretation of misuse of legal shield provided to women by the statutes. It studies the following legal provisions for protection and shield of women. Section 498A, 406, 304B, 306, 313, 354,497, 506, 375/376 (Marital Rape etc.) etc. of Indian

²⁵**Hoyle, et.al,** "*Domestic Violence Against Men*", Page 94 –96, (2002).

Penal Code, 1860, Section 125, 127, 164 including some part of procedure of Investigation by the Police Official by ignoring the rights of accused beside other provisions of Criminal Procedure Code, 1973, Sections 32(1) 112, 113A of Indian Evidence Act, 1872, Section 9, 11, 12, 13, 24/25, 27 of Hindu Marriage Act, 1955, Dowry Prohibition Act, 1961, Protection of Women from Domestic Violence Act, 2005, Medical Termination of Pregnancy Act, 1971, Art. 14, 15, 19, 20, 21, 22 (Non supply of Copy of FIR i.e. Ground of arrest not disclose), (role of Article 13) etc. of The Constitution of India, Cyber Laws (Right to Privacy), Right to Information Act, Certain Provisions of Hindu Succession Act, 1956, Certain Provisions of Hindu Adoption and Maintenance Act, 1956, Hindu Women's Right to Property Act' 1937, Other Civil Remedies

e.g. getting Job/pension etc. on compassionate ground after the death of husband, getting compensation under M.V. Act on account of death in Road Side Accident besides other statutes with respect to their misuse and subsequent impact on men and his family members. It also enumerates the action taken and to be taken by the judiciary to counter the misuse of the above-mentioned legal provisions.

1.4. Statement of Problems:

While making special laws for women, the legislators must think of victimized sect of the society in male line also. Laws like, Indian Penal Code section 498-A and Domestic Violence Act, 2005 etc. have number of provisions to intimidate husbands and their families. The effect of these laws is unjustified power in the hands of married women for blackmail and extortion in domestic disputes which irreparably damages the life of husbands and their relatives and sometimes also becomes the reasons for their death.²⁶

In India and elsewhere in the world, there are no special laws for male. There is Dowry Prohibition Act, Section 498A in Indian Penal Code i.e. offence of cruelty by husband and relatives of husband; section 125 in Code of Criminal Procedure i.e. maintenance for wife; protection of women from domestic violence, in Statute books. But there is no protection of men in Domestic Violence Act, 2005, there is no provision like Section 498B in Indian Penal Code, there is no provision like Section 125A in Code of Criminal Procedure i.e. maintenance to husbands under the Act. Even there is no provisions to take action against the wife for falsely implicate the husband and his family members in false

²⁶<http://www.498a.org/legal-torture.html>, visited on 03.06.2022

cases. Similarly no compensation provisions in favour of the husband or his relatives is there for any malicious prosecution on the part of wife. Whereas under D.V.Act and in Section 357 Cr.P.C. provision in favour of complainant is there for compensation. All these things itself against the natural justice system. Rather the specific laws for married women are misused by errant married women and police officers. The cry of victimized husbands and their relatives is not heard either in courts or in society, which is itself unconstitutional. The practice says that real purpose of the married women – related specifies laws are misused and thereby husbands suffer for no fault.²⁷

The section 498A of Indian Penal Code has become frustrated on the feminist stand point also. Rapid use and heavy misuse of this section has also failed to fulfill the object of social welfare and gender justice. The random arrest of mother-in-law and sister-in-law in the name of cruelty under this section has proved that to protect one woman it has put in danger and made vulnerable two more women.²⁸

1.5. Objectives:

Following are the Objectives of this research:

- To look into the situation of husband and his family members due to the Misuse of Laws Protecting the Women in Matrimonial Disputes and how these issues can be resolved.
- To interpret the terms of “Misuse” under the head of Legal Intimidation, Matrimonial Cruelty, Domestic Violence, Legal Terrorism Including other different terms used in Laws Protecting Women in Matrimonial Disputes in the light of available Precedents.
- To Study the misuse of relevant Statutes giving legal protections to married women, impact of its misuse on husband and his family member and sometimes even to children, its nature as a tool for harassment, its relevancy & adverse impact on today’s society.

To Analyze the Judicial response towards Misuse of legal protections available for married women in Matrimonial Disputes with the help of Law Commission’s Reports, Committee’s Recommendations, Precedent and Volksgeist (Nationalgeist) Theories etc.

- To Provide the Conclusion, Suggestions and Recommendation.

²⁷P.K.Das, *Law Relating To Cruelty To Husband*, 1 (2008)

²⁸Dr.Partha Pratim Mitra, “A New Look On Matrimonial Cruelty Within Criminal Law”, *Indian Bar Review*, Vol.XL (1) 2013.

1.6. Hypothesis:

Hypothesis of this research is based on the neglected position of husband and his family members due to Misuse of Legal Protections available for Married Women through Criminal Justice System etc. and suggesting how the said issues can be resolve through application of some new legal Statutes, Rules and Policies etc. for the safeguard of husband and his family members. Thus, the hypothesis of this research work is as under:

- That laws, policies, schemes, NGO's protecting married women are being misused by said women through legal tactics cleverly against husbands and his family members defaming their reputation by abusing the process of law just to cause them mental cruelty etc.

1.7. Research Questions:

Following are the research question of this study:

- Q1. Whether the laws passed by the legislature are women friendly leaving apart the situation of Husband and his family members?
- Q2. Whether the policies, schemes, plans and role played by some NGO's to protect the married women's Rights are being misused by women?
- Q3. Whether married women are readily defaming the reputation of husband and his family members by misusing laws protecting their rights or not?

1.8. Research Methodology:

Under this research work the researcher discovers important facts as a result of analytical investigation in order to contribute new ideas to the material being created. Hence, Analytical research methodology has been used. Secondly, the researcher has used *Doctrinal Method* for the compilation of this topic/research. To gather the data, Primary and Secondary sources have been relied upon. Although some parts in the research do contain *empirical data* but that is just complimentary to the research. The research is based on the case laws, legislative provisions, commission's reports, Precedents, numerous other committees' reports and other legal documents. The researcher after compiling all the facts and identify the legal problems after going through the articles, books, Journals, magazine etc. will reached to the conclusion and solution of the problem. All the sources and the authors thereto have been duly credited and mentioned separately at the footnote and Bibliography of the research.

1.9. Significance of Study:

- This research is to study the schemes, procedure and statutes, which are relevant for the topic i.e. “Abuse of Matrimonial Laws by Married Women: A Legal Study” and further suggesting the solutions of the issues involved by which Victims i.e. Husband and his family members may be protected by proper implementation of certain schemes, procedure and statutes etc.
- The efficacy of the current legal system for the welfare of Victims i.e. Husband and his family members due to the abuse of legal protections provided to married women will also be examined by the researcher.

1.10. Research Gap:

After perusal of review of literature with regard to the research topic. The researcher has found following Research Gap:

- What type of statutory provisions, policies require to be applied to resolve the problems of husbands and his family members yet to be consider for the purpose of this topic.
- Why the misusing of legal protections available for Married Women are in increasing trend.
- The role of Courts and Legislature to resolve the Problems in question require to be considered yet.
- Lack of awareness programs for the protection of Men Victim’s Rights.