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BEYOND THE MISUSE NARRATIVE: UNDERSTANDING ATTRITION IN MATRIMONIAL CRUELTY PROSECUTIONS THROUGH A SOCIO-LEGAL LENS¹

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Abstract

The offence of cruelty by a husband or his relatives has occupied a central position within India's legal response to domestic violence and matrimonial abuse. While the offence was historically governed by Section 498A of the Indian Penal Code, 1860, it now finds expression under Section 85 of the Bharatiya Nyaya Sanhita, 2023.² Despite the continued legislative commitment to addressing matrimonial cruelty, public and judicial discourse has increasingly been dominated by concerns regarding the alleged misuse of criminal law.

Conviction rates, acquittals, withdrawals, and settlements are frequently invoked as evidence that a significant proportion of complaints are false or malicious.³

This paper challenges such assumptions by examining attrition in matrimonial cruelty prosecutions through a socio-legal lens. Attrition refers to the progressive reduction of cases as they move through various stages of the criminal justice process, including investigation, charge-sheeting, trial, and final adjudication.⁴ Drawing upon socio-legal scholarship, criminal justice theory, and Indian judicial developments, the paper argues that attrition cannot be equated with misuse. Instead, criminal justice outcomes are shaped by a complex interplay of evidentiary difficulties, institutional practices, social pressures, economic dependence, procedural delays, and negotiated settlements⁵

The paper contends that the prevailing misuse narrative oversimplifies criminal justice realities and obscures the structural and procedural factors that contribute to case attrition. By shifting the analytical focus from outcomes to processes, the study seeks to develop a more nuanced framework for evaluating matrimonial cruelty prosecutions.

Keywords: Matrimonial cruelty, Section 85 BNS, Section 498A IPC, attrition, socio-legal studies, criminal justice, misuse debate, gender justice.

Introduction

The relationship between criminal law and family conflict has emerged as one of the most contested areas of contemporary legal discourse in India. Over the past four decades, the criminalisation of matrimonial cruelty has generated intense debate among legislators, courts, scholars, activists, and the broader public. Introduced through the Criminal Law (Second Amendment) Act, 1983, Section 498A of the Indian Penal Code represented a legislative response to the increasing incidence of domestic violence, dowry-related harassment, and dowry deaths.⁶ The provision sought to address a persistent social problem by recognising cruelty within marriage as a matter of public concern rather than a purely⁷ private dispute.⁸

The enactment of Section 498A marked a significant departure from traditional legal approaches to family relations. By bringing matrimonial cruelty within the domain of criminal law, the legislature acknowledged that violence and coercion occurring within the household could no longer be insulated from state intervention. The provision consequently became a cornerstone of India's legal framework for the protection of married women.

Although the Indian Penal Code has now been replaced by the Bharatiya Nyaya Sanhita, 2023, the offence continues substantially under Section 85, reflecting the continued legislative commitment to criminal accountability for matrimonial cruelty.

Notwithstanding its protective objectives, the offence has remained the subject of sustained controversy. Judicial observations, media narratives, and public commentary have frequently suggested that criminal proceedings relating to matrimonial cruelty are susceptible to misuse.⁹ Concerns regarding arbitrary arrests, exaggerated allegations, and strategic litigation have shaped both legal discourse and policy debates. Several judicial decisions have acknowledged the possibility of misuse and have sought to develop procedural safeguards intended to prevent unnecessary hardship to accused persons.¹⁰

These concerns have contributed to the emergence of what may be described as the "misuse narrative." At its core, this narrative assumes that a substantial proportion of matrimonial cruelty complaints are false, exaggerated, or motivated by collateral objectives. Statistical indicators such as acquittal rates and case closures are often cited in support of this claim.¹¹ Consequently, criminal justice outcomes are frequently interpreted through a binary framework that distinguishes between genuine complaints and false cases.

Such an approach, however, raises significant conceptual and methodological concerns.

Criminal justice systems rarely operate as straightforward mechanisms for determining truth.

The progression of a case from complaint to conviction is influenced by numerous institutional, evidentiary, social, and economic factors.¹² A case may fail to result in conviction because

evidence is insufficient to satisfy the standard of proof beyond reasonable doubt. It may terminate because parties reach a settlement, because witnesses become unavailable, because delays undermine prosecution efforts, or because complainants face social and economic pressures that discourage continued participation in legal proceedings. None of these outcomes necessarily establish that the original complaint was false.¹³

The concept of attrition offers a useful framework for understanding these complexities. Attrition refers to the reduction in the number of cases as they move through successive stages of the criminal justice process. Rather than focusing exclusively on final outcomes, attrition analysis examines how and why cases are filtered at different stages, including complaint registration, investigation, charge-sheeting, trial, and appeal.¹⁴ This approach shifts attention from simplistic outcome-based assessments to the broader institutional processes that shape criminal justice trajectories.

Socio-legal scholarship has long emphasised that law cannot be understood in isolation from its social context. Legal rules operate within broader structures of power, culture, economics, and social relationships¹⁵. Matrimonial disputes provide a particularly important site for socio-legal inquiry because they involve intimate relationships, family dynamics, gendered expectations, and competing social norms.¹⁶

The present paper argues that the misuse narrative fails to capture the complexity of matrimonial cruelty prosecutions because it conflates attrition with falsity. While acknowledging that false complaints may occur, the paper contends that criminal justice outcomes must be analysed within a broader socio-legal framework. Attrition should be understood as a multidimensional phenomenon reflecting the interaction of legal institutions and social realities rather than as a direct indicator of misuse.

Literature Review

The debate surrounding matrimonial cruelty prosecutions in India has generated a substantial body of legal, sociological, feminist, and criminological scholarship. The literature reflects deep disagreements concerning the role of criminal law in regulating family relationships, the effectiveness of legal protections for women, and the extent to which allegations of misuse should influence legislative and judicial responses. Although scholars differ in their normative positions, there is increasing recognition that simplistic explanations based solely on conviction rates or acquittal statistics fail to capture the complexity of criminal justice outcomes. The present study builds upon this emerging scholarship by examining attrition as a socio-legal phenomenon rather than as a direct indicator of misuse.

Criminalisation of Domestic Violence and Matrimonial Cruelty

The enactment of Section 498A of the Indian Penal Code in 1983 marked a significant shift in the legal treatment of violence within marriage. Prior to its introduction, domestic abuse was often perceived as a private family matter beyond the proper scope of criminal law intervention. The growing incidence of dowry-related violence, coupled with sustained advocacy by women's rights movements, prompted the legislature to recognise cruelty within marriage as a distinct criminal offence.

Early feminist scholarship generally welcomed the provision as a necessary response to systemic violence against women. Scholars such as Flavia Agnes argued that domestic violence must be understood within broader structures of patriarchy, economic dependence, and gender inequality rather than as isolated incidents of interpersonal conflict. From this perspective, criminal law served both a symbolic and practical function by recognising the seriousness of abuse occurring within the household.

Similarly, Ratna Kapur and Brenda Cossman¹⁷ emphasised that legal regulation of family relations reflects broader social struggles concerning gender, power, and citizenship. Their work highlighted the limitations of traditional legal frameworks that privileged family preservation over women's autonomy and safety. Within this framework, criminalisation represented an attempt to challenge entrenched patterns of domestic subordination.

However, feminist scholars have also acknowledged the limitations of criminal law as an instrument of social transformation. While legal sanctions may provide important remedies, criminal proceedings alone cannot eliminate the structural conditions that contribute to domestic violence. Economic dependence, social stigma, cultural expectations, and institutional barriers continue to affect the ability of women to access justice effectively. Consequently, legal outcomes must be analysed within their broader social context.

The Emergence of the Misuse Debate: Criminalisation alone cannot address structural inequalities affecting women."¹⁸ While Section 498A was originally introduced as a protective measure, concerns regarding misuse began to emerge during the 1990s and intensified during the following decades. Critics argued that the provision was susceptible to strategic use during matrimonial disputes and that innocent family members were sometimes implicated in criminal proceedings.

Judicial observations played a significant role in shaping public discourse. Several courts expressed concern regarding mechanical arrests, over-implication of relatives, and the potential for criminal proceedings to be used as leverage in matrimonial negotiations. These concerns were particularly visible in decisions such as *Arnesh Kumar v. State of Bihar*, where the

Supreme Court emphasised the need for safeguards against unnecessary arrests.

Subsequent decisions further reflected judicial anxiety regarding procedural fairness and the potential misuse of criminal process.

The misuse debate has generated extensive academic commentary. Some scholars argue that criminal provisions addressing domestic violence must incorporate safeguards to prevent abuse of legal process. Others contend that excessive emphasis on misuse risks undermining the protective purpose of the law and discouraging genuine complainants from seeking legal assistance.

Importantly, much of the misuse discourse relies upon conviction rates and acquittal statistics as evidence of false complaints. This assumption has been criticised by socio-legal scholars who note that criminal justice outcomes cannot be reduced to simple indicators of truth or falsity. The mere fact that a prosecution does not result in conviction does not establish that the original complaint was fabricated. Criminal adjudication involves complex evidentiary standards, procedural requirements, and institutional constraints that influence outcomes independently of the factual accuracy of allegations.

Attrition in Criminal Justice Research: The concept of attrition occupies a central place within criminological and criminal justice scholarship. Attrition refers to the reduction in the number of cases as they progress through successive stages of the criminal justice process. Rather than assuming that every complaint will culminate in conviction, attrition research examines the various points at which cases are filtered, delayed, transformed, or terminated.

International scholarship has consistently demonstrated that attrition is a normal feature of criminal justice systems. Decisions made by police officers, prosecutors, judges, complainants, witnesses, and defence counsel collectively influence case trajectories. As a result, conviction rates alone provide limited insight into the effectiveness or legitimacy of criminal justice institutions.

Marc Galanter's influential work on legal mobilisation and dispute processing provides an important theoretical foundation for understanding attrition. Galanter argued that legal disputes undergo significant transformation as they move through institutional processes. Outcomes are shaped not only by legal rules but also by resource disparities, organisational practices, and strategic behaviour. His insights remain highly relevant to matrimonial cruelty prosecutions, where parties often possess unequal economic and social resources.

Socio-legal researchers have similarly emphasised that criminal justice outcomes should be understood as products of institutional interactions rather than as straightforward reflections of

factual guilt or innocence. Attrition may result from evidentiary limitations, procedural barriers, resource constraints, or negotiated settlements. Consequently, the interpretation of case outcomes requires careful contextual analysis.

Socio-Legal Explanations of Attrition in Matrimonial Cases: Several strands of scholarship provide explanations for attrition in matrimonial cruelty prosecutions. One important explanation concerns the role of social and familial pressure. Marriage in India is often embedded within broader networks of kinship and community relationships. Family members frequently intervene in disputes and encourage reconciliation, compromise, or withdrawal of complaints. Such pressures may significantly affect complainants' willingness to pursue criminal proceedings.

Economic dependence represents another major factor. Numerous studies have documented the financial vulnerabilities experienced by women involved in matrimonial disputes.

Dependence on marital households, uncertainty regarding maintenance, and concerns about future economic security may encourage settlements even in cases involving genuine abuse. Attrition arising from such circumstances cannot easily be interpreted as evidence of falsity.

Research has also highlighted evidentiary challenges associated with domestic violence cases. Acts of cruelty frequently occur within private spaces where independent witnesses are unavailable. Physical injuries may not always be documented, and psychological abuse may be difficult to establish through conventional evidentiary frameworks. Consequently, prosecutors often face significant obstacles in satisfying the criminal standard of proof beyond reasonable doubt.

Institutional factors further contribute to attrition. Delays in investigation, inadequate evidence collection, inconsistent policing practices, and prolonged trial processes may weaken prosecutions over time. Witnesses may become unavailable, memories may fade, and complainants may lose confidence in legal institutions. These dynamics underscore the importance of examining attrition as a systemic phenomenon rather than attributing outcomes solely to complainant behaviour.

Judicial Responses and Procedural Reform: The judiciary has played a central role in shaping contemporary understandings of matrimonial cruelty prosecutions. Decisions such as *Arnesh Kumar v. State of Bihar* introduced important procedural safeguards concerning arrests.

Subsequently, *Rajesh Sharma v. State of Uttar Pradesh* proposed additional mechanisms intended to prevent misuse. However, aspects of that decision were later reconsidered in *Social*

Action Forum for Manav Adhikar v. Union of India, where the Supreme Court emphasised the need to balance procedural safeguards with the rights of complainants.

Academic responses to these decisions reveal continuing tensions between competing objectives. Some commentators view procedural safeguards as essential protections against arbitrary state action. Others argue that excessive emphasis on misuse risks diluting legal protections for victims of domestic violence. This tension illustrates the broader challenge of designing criminal justice responses that simultaneously protect complainants, safeguard due process, and maintain public confidence in legal institutions.

Research Gap: Although extensive scholarship exists on domestic violence, gender justice, and allegations of misuse, relatively limited attention has been devoted to attrition as an independent object of socio-legal inquiry. Much of the existing literature remains outcome-focused, relying upon conviction rates or acquittal statistics to evaluate legal effectiveness.

Such approaches often overlook the complex processes through which cases move from complaint to final disposition.

Furthermore, the transition from Section 498A IPC to Section 85 of the Bharatiya Nyaya Sanhita has created an opportunity to reconsider established assumptions regarding matrimonial cruelty prosecutions. Existing scholarship has yet to fully examine how debates concerning misuse, procedural fairness, and criminalisation should be understood within the new legislative framework.

The present study addresses this gap by shifting analytical attention from outcomes to processes. Instead of asking whether attrition demonstrates misuse, the paper investigates how social, institutional, evidentiary, and procedural factors contribute to case attrition. Such an approach provides a more nuanced framework for understanding matrimonial cruelty prosecutions and contributes to broader socio-legal debates concerning criminal justice, gender, and family regulation.

Conceptual Framework and Methodology

A. Conceptualising Attrition in Criminal Justice: The concept of attrition occupies a significant place within contemporary criminal justice scholarship. Traditionally, criminal justice systems have been evaluated through outcome-based indicators such as conviction rates, acquittal rates, or disposal statistics. Such approaches assume that final outcomes provide reliable measures of legal effectiveness. However, criminologists have increasingly questioned

this assumption, arguing that criminal proceedings involve multiple stages of institutional decision-making that shape outcomes independently of the substantive merits of individual cases.¹⁹

Attrition refers to the progressive reduction in the number of cases as they move through successive stages of the criminal justice process.²⁰ Not all complaints result in investigation, not all investigations result in prosecution, and not all prosecutions result in conviction. Cases²¹ may be filtered out through police discretion, prosecutorial decisions, evidentiary deficiencies, witness withdrawal, negotiated settlements, judicial intervention, or procedural delays.²² Consequently, criminal justice outcomes must be understood as products of institutional processes rather than as direct reflections of factual guilt or innocence.

The concept is particularly useful in analysing matrimonial cruelty prosecutions because such cases involve unique social dynamics. Unlike conventional criminal offences involving strangers, matrimonial disputes arise within intimate relationships characterised by emotional interdependence, family obligations, economic considerations, and continuing social ties.²³ These factors influence decision-making throughout the criminal process and frequently contribute to case attrition.

The present study adopts attrition as a central analytical framework because it enables a shift away from outcome-based interpretations towards process-oriented analysis. Instead of asking why certain cases end in acquittal, the framework asks how cases move through different stages of the criminal justice system and what factors contribute to their progression or termination. This perspective is particularly relevant in the context of debates concerning the alleged misuse of matrimonial cruelty laws, where acquittal rates are often treated as proxies for false complaints.²⁴

B. Socio-Legal Theory and Matrimonial Conflict: The socio-legal approach adopted in this paper is informed by the broader insight that law functions within society rather than apart from it. Socio-legal scholars reject formalist assumptions that legal rules operate independently of social structures. Instead, they emphasise the interaction between law, culture, economics, politics, and social norms²⁵ Marriage provides an especially significant site for socio-legal inquiry because it represents both a legal institution and a social relationship. Legal disputes arising within marriage are therefore influenced by factors extending beyond formal legal rights and obligations.

Decisions regarding litigation are frequently shaped by considerations relating to family reputation, social status, emotional attachment, religious norms, and economic dependency.²⁶

The criminalisation of matrimonial cruelty reflects an attempt by the state to address violence occurring within intimate relationships. However, criminal law operates within pre-existing social structures that may either facilitate or obstruct legal intervention. For example, women experiencing domestic abuse may face pressure from family members to reconcile with their spouses. Economic dependence may discourage continued participation in criminal proceedings. Community expectations concerning marriage may further complicate decisions regarding litigation.²⁷

A socio-legal perspective therefore requires attention not only to legal doctrine but also to the social contexts within which legal rules are implemented. Attrition becomes particularly significant because it reveals the interaction between formal legal processes and informal social pressures.

C. Criminalisation of Matrimonial Conflict: Matrimonial cruelty prosecutions form part of the broader trend towards the criminalisation of domestic violence. While criminal sanctions seek to provide protection against abuse within marriage, scholars remain divided regarding the effectiveness of criminal law in addressing complex family disputes. The present study does not seek to resolve this normative debate. Instead, it focuses on how matrimonial cruelty complaints are processed through criminal justice institutions and how attrition occurs at different stages of that process.

D. Research Methodology: This study adopts a doctrinal and socio-legal methodology. The doctrinal component examines statutory provisions, judicial decisions, law reform reports, and legal principles governing matrimonial cruelty prosecutions. Particular attention is devoted to the historical development of Section 498A of the Indian Penal Code and its continuation under Section 85 of the Bharatiya Nyaya Sanhita, 2023.²⁸

The socio-legal component focuses upon the interaction between legal institutions and social realities. Rather than treating criminal justice outcomes as self-explanatory, the study investigates the social, economic, institutional, and procedural factors that contribute to attrition. This approach enables a more comprehensive understanding of criminal justice processes than conventional outcome-based analyses.

The study relies primarily upon secondary sources, including Supreme Court decisions, Law Commission reports, National Crime Records Bureau publications, parliamentary materials, and academic scholarship relating to criminal justice, domestic violence, and socio-legal

studies. The research does not claim to present original empirical findings. Instead, it develops a conceptual framework for understanding attrition through synthesis of existing legal and scholarly materials.

E. Attrition and the Misuse Narrative: A Critical Reassessment

The debate surrounding matrimonial cruelty prosecutions in India has increasingly been dominated by concerns regarding the alleged misuse of criminal law. Judicial observations, media narratives, and public discourse frequently invoke low conviction rates, acquittals, and case closures as evidence that a substantial proportion of complaints are false or malicious.²⁹ Such reasoning has significantly influenced contemporary discussions concerning Section 498A of the Indian Penal Code and its successor provision, Section 85 of the Bharatiya Nyaya Sanhita, 2023.³⁰

While concerns regarding procedural fairness and wrongful implication cannot be dismissed, the tendency to equate criminal justice outcomes with misuse presents serious conceptual and methodological difficulties. Criminal justice systems do not operate as linear truth-determining mechanisms. Instead, they consist of multiple decision-making stages involving police officers, prosecutors, judges, complainants, witnesses, and defence counsel.³¹ Outcomes emerging from these processes are influenced by evidentiary standards, institutional practices, social pressures, economic constraints, and procedural delays.

Consequently, acquittals and case closures cannot automatically be treated as indicators of falsity.

This section argues that the misuse narrative oversimplifies the realities of matrimonial cruelty prosecutions by focusing disproportionately on final outcomes while ignoring the processes through which those outcomes are produced. Attrition provides a more useful analytical framework because it directs attention towards the factors that shape case progression throughout the criminal justice system.

Stage Sources of Attrition

FIR Under-reporting, social pressure, reluctance to complain Investigation Evidentiary limitations, police discretion Charge-Sheet Settlement, reconciliation, insufficient evidence Trial Delay, hostile witnesses, burden of proof The factors identified above demonstrate that attrition is a multifaceted process rather than a reliable indicator of falsity. Cases may exit the criminal justice system for reasons unrelated to the truthfulness of allegations, including evidentiary difficulties, procedural delays, social pressures, and negotiated settlements.

Consequently, acquittals and case closures should be interpreted with caution and analysed within their broader institutional and social context.

F. Judicial Construction of the Misuse Narrative

Judicial concern regarding the alleged misuse of matrimonial cruelty provisions developed progressively through a series of decisions. In *Sushil Kumar Sharma v. Union of India*³² and *Preeti Gupta v. State of Jharkhand*³³, the Supreme Court expressed concern regarding over-implication of relatives. This concern influenced *Arnesh Kumar v. State of Bihar*³⁴, which introduced safeguards against routine arrests. Subsequently, *Rajesh Sharma v. State of Uttar Pradesh*³⁵ proposed additional procedural mechanisms, while *Social Action Forum for Manav Adhikar v. Union of India*³⁶ modified those directions to ensure that procedural safeguards did not undermine statutory protections for women. More recently, *Kahkashan Kausar v. State of Bihar*³⁷ emphasised the need for specific allegations against distant relatives before criminal proceedings are permitted to continue.

G. Section 85 BNS and the Future of the Debate

The replacement of Section 498A IPC by Section 85 of the Bharatiya Nyaya Sanhita represents an important legislative transition. Although the substantive offence remains largely intact, the enactment of the BNS provides an opportunity to reconsider established assumptions regarding matrimonial cruelty prosecutions.³⁸

Future debates should move beyond simplistic misuse narratives and focus instead upon institutional performance. Questions concerning investigation quality, prosecutorial effectiveness, judicial delay, victim support services, and data collection are likely to provide more meaningful insights into criminal justice outcomes than reliance upon conviction statistics alone.

NCRB Trends and the Limits of Outcome-Based Analysis

The latest NCRB data continue to demonstrate the centrality of matrimonial cruelty within the broader category of crimes against women. According to the NCRB's *Crime in India 2023* report, a total of **4,48,211 crimes against women** were registered across India in 2023. Among these, **1,33,676 cases (29.8%)** related to cruelty by husband or relatives under Section 498A IPC, making it the single largest category of crimes against women. The overall charge sheeting rate for crimes against women stood at **77.6%**.

These figures are important because they demonstrate that matrimonial cruelty remains one of the most frequently reported forms of violence against women. At the same time, reliance on conviction rates alone risks obscuring the multiple stages at which attrition occurs.

Criminal justice outcomes are influenced not only by the merits of allegations but also by investigation quality, witness participation, prosecutorial effectiveness, settlement practices, and judicial delays. This reinforces the central argument of the present study that attrition should be analysed as a process rather than as a proxy for falsity.

H. Policy Recommendations

Future reforms should focus upon stage-wise NCRB data collection, improved investigative practices, enhanced victim-support mechanisms, reduction of procedural delays, and evidence-based policy making. Such measures are more likely to improve criminal justice outcomes than reliance upon assumptions derived solely from conviction or acquittal rates.

Conclusion

The misuse narrative has exerted considerable influence upon public and judicial discourse concerning matrimonial cruelty prosecutions. However, the tendency to interpret acquittals and case closures as evidence of false complaints overlooks the complex institutional and social processes through which criminal justice outcomes are produced.

This paper has argued that attrition provides a more useful analytical framework than misuse. By examining the various stages at which cases exit the criminal justice system, attrition analysis reveals the influence of evidentiary difficulties, procedural delays, investigative shortcomings, social pressures, economic dependence, and negotiated settlements. These factors demonstrate that criminal justice outcomes cannot be reduced to binary distinctions between genuine and false complaints.

The transition from Section 498A IPC to Section 85 BNS offers an opportunity to rethink established assumptions and develop a more nuanced understanding of matrimonial cruelty prosecutions. Rather than asking whether attrition proves misuse, scholars and policymakers should focus on understanding how legal institutions process matrimonial conflict and how those processes can be improved to promote both justice and fairness.

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