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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **SECTION 498A IPC: BALANCING PROTECTION AND MISUSE**

AUTHORED BY - NEHA DAS

7<sup>th</sup> Semester, Heritage Law College, Kolkata

CO-AUTHOR - PRITHWISH GANGULI, Advocate

LL.M. (Cal) Advocate, MA in CL & FS (NALSAR), MA Sociology (SRU) Guest Faculty,

Heritage Law College, Kolkata

**Synopsis:** Section 498A of the Indian Penal Code (IPC) was introduced in 1983 to protect married women from cruelty inflicted by their husbands and in-laws. It addresses mental and physical harassment, particularly related to dowry demands, aiming to safeguard the dignity and rights of women. However, over the years, the application of this provision has sparked significant debate due to instances of misuse. Allegations of false accusations have led to concerns about the fairness and balance of the law, particularly its impact on the accused, who may face arrest and social stigma even before a trial. This article explores the dual nature of Section 498A IPC, examining its role as a protective tool for women and the challenges posed by its misuse. The discussion focuses on the legal framework, judicial interpretations, and recommendations for ensuring that the provision serves its intended purpose while preventing its exploitation. The article aims to contribute to the ongoing discourse on finding an equilibrium between protection against genuine grievances and the prevention of unwarranted misuse.

**Keywords:** Domestic Violence, Dowry Harassment, Legal Safeguards, Judicial Scrutiny, Misuse Prevention

## **INTRODUCTION**

Section 498A of the Indian Penal Code (IPC) was introduced in 1983 as a critical legal provision to address the escalating issue of cruelty faced by married women at the hands of their husbands and in-laws. The section was designed to offer protection to women from physical and mental abuse, including harassment for dowry, which often led to severe

consequences, including suicide or murder. Enacted as a protective measure, Section 498A recognized the need to safeguard women's rights within the marital relationship, providing them with a legal recourse against domestic violence and dowry-related harassment.

However, over the years, the application of Section 498A has sparked significant debate and controversy. While it has undeniably served as an essential tool in the fight against domestic abuse, concerns have also been raised about its potential for misuse. Instances have emerged where the provision has been allegedly exploited to settle personal scores or harass innocent family members, leading to a discourse on the need for balance between protection and the prevention of misuse. The Supreme Court of India and various legal scholars have frequently addressed the issue, emphasizing the importance of fair investigation and the need for judicial scrutiny to ensure justice is served without prejudice.

This article delves into the dual aspects of Section 498A IPC—its role as a protective legal mechanism and the concerns regarding its misuse. By analysing key judicial pronouncements, legislative amendments, and statistical data, this discussion aims to explore the challenges in balancing the original intent of the law with the realities of its application. The article further examines the impact of recent reforms and judicial guidelines intended to curb misuse while ensuring that the provision remains an effective tool for protecting women's rights.

### **EXPLAINING THE PROVISION**

Section 498A was after bearing in mind this quote - '*Justice delayed is justice denied*'. The world is gender-based, many societies assign specific roles, responsibilities, and expectations based on gender. Laws and legal systems treat men and women differently. We all know that women are neglected by society in the ancient period and the past times were very tough for women. Women are underrepresented in society and also face violence from their family members, husbands, in-laws and society. In India, gender-based violence is a more common phenomenon than elsewhere, which resulted in the enactment of many women-centric laws. Section. 498A was inserted by Amendment in the year 1983, which talks about cruelty faced by married women at the hands of their husbands and in-laws, it is another law for women. This provision's main purpose is claimed to provide protection for women against domestic violence, harassment, dowry-related harassment and cruelty. Section 498A is a relevant provision for women, which empowered women to raise voices against violence.

The term “*domestic violence*”, includes mental, physical, and sexual abuse in marriage or a cohabitation relationship. The term “*Intimate partner violence*” is another prevalent name for domestic violence.

The term “*cruelty*” is a ground of matrimonial relief under all the personal laws. It was the only ground of judicial separation before The Marriage Laws Act, 1976. Cruelty generally refers to a violent act which causes pain and distress.

Cruelty is mainly divided into two types, one is physical cruelty, “if one spouse does an act of violence of such kind which causes injuries to the body and health of the other spouse, then it is known as physical cruelty” and the other one is mental cruelty means, “psychological or emotional abuse and insults which causes pain and distress in mind”.

Nowadays physical cruelty is not only necessary ground to establish legal cruelty, but there are also some other grounds like continuous ill-treatment, cessation of marital intercourse, indifference on the part of the husband and the assertion on the part of the husband that the wife is unchaste, are all factors which lead to mental or legal cruelty.

Section 498A lays down the purview of the word cruelty. According to it:

- Any act which is likely to cause the woman to commit suicide is cruelty;
- Any act which is likely to cause any serious injury to the woman is cruelty;
- Any act that is likely to cause danger to life, limb and mental or physical health of the woman is cruelty;
- Harassment of the woman with a view to forcing her or her relatives to meet any demand for assets is cruelty;
- Harassment of the woman on account of that the woman could not fulfill the demands of dowry is cruelty.

The word harassment or cruelty in an ordinary sense means to torment a person. If such torment is done with the view to forcing the wife or her relatives to meet any demand of assets or property, it amounts to harassment as contemplated by section 498A.

IPC can manifest the cruelty in multiple offenses. For example:

- i. Making persistent demands for dowry;
- ii. Vexatious or false litigation against the other spouse;



- iii. Extra-marital relations of any spouse;
- iv. Not accepting the birth of a girl child;
- v. Wife forced by her husband to undergo a sex-determination test;
- vi. Making false allegations about the wife's chastity.

### **Landmark Case laws**

In the case *Shobha Rani vs Madhukar Reddi (1988)*, the Supreme Court held that the demand for dowry could amount to cruelty. The court emphasized that cruelty need not always be physical; even mental cruelty is a valid ground for divorce.

*Samar Ghosh vs Jaya Ghosh (2007)*, in this case, the Supreme Court laid down broad parameters for determining mental cruelty in matrimonial cases. The court recognized that cruelty could be subtle and could include indifference, humiliating treatment, or a lack of emotional support.

In the case *Savita Bhatnagar vs V.K. Bhatnagar (2014)*, the Supreme Court emphasized that cruelty is not confined to physical violence but includes emotional and psychological harm.

*K. Srinivas Rao vs D.A. Deepa (2013)*, in that case, the Supreme Court ruled that filing false criminal complaints against a spouse can constitute mental cruelty and can be a ground for divorce.

### **IMPORTANT DISCUSSION ABOUT SECTION 498A**

Section. 498A deals with about cruelty faced by married women at the hands of their husbands and in-laws, it is another law for women. This provision's main purpose is claimed to provide protection for women against domestic violence, harassment, dowry-related harassment and cruelty. Section 498A is a relevant provision for women, which empowered women to raise voices against violence. Section 498A prescribes a punishment of 3 years and a fine.

There are such essential elements & necessary situations of arrest:

#### **Essential element**

- i. The woman must be married;
- ii. She must be subjected to cruelty or harassment; and

- iii. Such cruelty or harassment must have been shown either by the husband of the woman or by the relative of her husband.

### **Necessary situations**

- i. **Medical Evidence of Abuse:** If the wife approaches the police station with the Complaint of harassment and physical abuse by husband and relatives then it is necessary to provide all medical documents and reports of her injury, which will make the situation for the Police Authorities to investigate the whole family by taking all of them into police custody.
- ii. **Section 498A & Section 406 of Indian Penal Code:** Section 406 deals with criminal breach of trust. If the wife approaches Police Station with a complaint of harassment and accuses her husband and family that they refuse to return all jewellery and assets of the wife which she got in her marriage then it becomes necessary for Police Authorities to immediately arrest the husband and relatives in order to recover jewellery and assets of wife of. Section 406 of IPC is applied when jewellery and assets of the wife are in wrongful possession of the husband and relatives and they refuse to return it.

### **NEED OF SECTION 498A**

Women faced violence and have always been subject to cruelty by male society. Section 498A empowered the women to fight back. There is a dire need for laws like these in a country like India, because –

- i. The women are tortured by their husbands for dowry. 90% of cases are always related to dowry.
- ii. Woman are continuously forced, tortured, threatened and abused by their husbands. Section 498A of the IPC helps woman to raise voices against torture, threat, force and abuse.
- iii. In many cases, the women are also subject to mental cruelty. For these reason, women faced distress, depression and also attempted suicide.
- iv. Dire need for this provision to provide adequate punishment to the husband and his family members for any cruelty inflicted on married women.

No matter if the laws are misused, they cannot be removed from the Indian Penal Code. As the laws can always be amended. There will be certain loopholes but always a provision can be added to rectify the problems.

Crimes against women have increased over the years. The Indian Constitution uses the section 498A to protect married women from cruelty at the matrimonial home. Though there is wide misuse by women. This section is the most fiercely debated section of the IPC. However, to balance its protective intent with fairness, there is a need for continued judicial oversight and reforms to prevent misuse and protect the rights of all parties involved.

### USE OF SECTION 498A

Section 498A is used as a safety measure for women who are faced atrocity by their husbands and their family members. In 90% of the cases women are physically and mentally tortured and threatened by their husbands for more money and property.

*Ram Kishan Jain & Ors v State of Madhya Pradesh* in this case the woman could not fulfil the demands of dowry for this reason she was administered calmose tablets and thereafter she even cut the veins of both her hands. Sometimes, women are tortured and die not only for dowry also their complexion and family status.

In the case of *Surajmal Banthia & Anr. v. State of West Bengal*, the woman died for the reason she was ill-treated and tortured for several days and even not given food several times. Her father-in-law also misbehaved with her. Several young brides face that behavior and treatment when they move out of their parent's home and into the house of her in-laws'. It is the duty of the court to prevent the escaping of the abusers. Day to day increasing rate of bride painful burning for want of more dowry and brutal torture of young wives, is a clear indication that the court has not taken any strong measures for the implementation of Section 498A of IPC properly.

Section 498A IPC does not only deal with dowry deaths but also deals with any willful conduct on part of the husband that causes injury and damage to the wife's life, limb or health.

Showing any pity to abusers or giving them the 'benefit of the doubt' when some proof of torture at their hands is present is completely wrong, like in the case of *Ashok Batra & Ors v State* even though letters of the deceased stating that harassment had taken place was present, not treating them as strong evidence and giving the appellants a benefit of doubt without ordering for a further investigation into the matter is wrong.

## MISUSE OF SECTION 498A

Section. 498A empowered the women to raise voices against violence but on the other side, it is also an easy tool for women to misuse against their husbands. Women misuse this section by filing false complaint against their husband with the goal of getting some money and to harass husband and their family members.

In many judgments, the court has not considered mental cruelty only concentrated on any sign of physical cruelty. If evidence can't prove that the woman was physically harassed, then the court does not look into the case.

### Landmark Judgement

***Arnesh Kumar v. State of Bihar*** In this case, Supreme Court addressed the misuse of Section 498A. In this landmark judgment, the court held that arrests should not be made in a routine manner and also laid down such guidelines to prevent the unnecessary arrest of the accused person, emphasizing that before arresting the accused person the police officer should be satisfied with the necessity for arrest under the parameters laid down in Section 41 of the Code of Criminal Procedure.

This judgment's main aim is to prevent the misuse of Section. 498A and protect innocent individuals from unnecessary harassment.

***Rajesh Sharma & Ors vs. State of U.P. & Anr. (2017)*** In this landmark judgement, Supreme Court acknowledged the misuse of Section. 498A and issued guidelines to prevent the misuse. It suggested the formation of Family Welfare Committees in each district, which would examine the complaints filed under Section 498A before taking any action by the police.

This judgment was aimed at reducing the number of false cases and safeguarding the rights of those accused under Section 498A.

The decision of *Rajesh Sharma & Ors vs. State of U.P. & Anr.* is later modified in the 2018 judgment of the *Social Action Forum for Manav Adhikar v. Union of India*. In this case, court has declared that the constitution and duties of the Family Welfare Committee were impermissible and that the judiciary should not interfere with the statutory framework of the CrPC.

This judgment balanced the concerns of misuse of Section 498A with the need to ensure that genuine cases of cruelty are not neglected.

*Geeta Mehrotra & Anr. vs. State of U.P. & Anr. (2012)* In this case, the Supreme Court observed that complaints under Section 498A should be scrutinized with care, especially when large numbers of family members are implicated. The Court highlighted the issue of frivolous cases and called for a more judicious application of the law.

These judgments reflect the judiciary's approach towards ensuring that while Section 498A remains a potent tool for protecting women from cruelty, safeguards are in place to prevent its misuse. The courts have consistently emphasized the need for balanced and careful application of this law to prevent injustice to either party.

### **WHETHER THE PROVISION IS BEING MISUSED**

It is true that women are tortured and threatened by their husbands and family members but this does not mean that this section is not misused. But also, several cases show that the married woman takes advantage of the section and uses it as an easy tool for harassing their husband and family members.

The women goals and aims for violation of this section is frivolously making false allegations against their husbands with the purpose of getting some money or simply hurting the husband's family members.

In today's world, the abuse or misuse of the Section 498A is rapidly increasing. Like in the case of *Neelu Chopra & Anr. v Bharati*, Neelu Chopra and Krishan Sarup Chopra are husband-wife and Bharati was their daughter-in-Law. In 1993 Bharti filed complaints against her husband and in-laws under Section 498A because her married life with her husband was not very smooth due to unreasonable demands of dowry and misbehavior of her husband and in-laws. Rajesh expired in 2006 and the present case only lies against the in-laws.

The court observed, in this case, it was not clear that which accused had committed what offense and what exact role played by them. Based on these vague circumstances it would be an abuse of the process of law to allow the prosecution against Rajesh's parents for this reason the court directed to quash the complaint under Section 482 of CrPC deals with the prevention



of the process of any court.

In the case of *Savitri Devi v Ramesh Chand & Ors*, the court specifically regulated the abuse connected with the manipulation of the laws to such an extent that it was totally influenced by the influence of marriage itself and thus found not to be intelligent for the welfare of the giant community. The court considered that authorities and lawmakers had to review the case and the legal provisions to prevent it from happening.

## WHETHER THE PROVISION SHOULD BE REPEALED

The question of whether Section 498A of the Indian Penal Code (IPC) should be repealed is a contentious issue, with strong arguments on both sides. Section 498A was introduced in 1983 to address the growing concerns over cruelty towards married women, particularly in relation to dowry harassment and domestic violence. However, the provision has faced criticism for its alleged misuse, leading to calls for its repeal or amendment. Here's a detailed examination of the arguments for and against the repeal of Section 498A IPC:

### Arguments for Repeal

#### 1. Misuse and False Allegations:

- One of the strongest arguments for repealing Section 498A is the widespread perception of its misuse. Critics argue that the law is often exploited to file false or exaggerated complaints, primarily in matrimonial disputes. Such misuse can lead to unjust arrests, social stigma, and prolonged legal battles for the accused, who may be innocent. The provision's non-bailable and cognizable nature exacerbates these issues, as it allows for immediate arrest without a preliminary investigation.

#### 2. Impact on Families:

- The misuse of Section 498A can have severe consequences for the accused and their families, including elderly parents and young children. The law is sometimes used as a tool for revenge or coercion, causing emotional and financial strain on entire families. This has led to concerns that the law, in its current form, is being used more as a weapon than a shield for genuine victims of domestic violence.

#### 3. Judicial Criticism:

- Various judicial pronouncements have acknowledged the potential for misuse of Section 498A. Courts have sometimes observed that the law is being used to

settle personal scores rather than address genuine grievances. The judiciary has, in some cases, issued guidelines to prevent misuse, but these measures have not completely eliminated the problem, leading some to argue that the law should be repealed altogether.

#### 4. Alternative Legal Remedies:

- Those advocating for the repeal of Section 498A argue that there are already sufficient legal provisions to protect women from domestic violence and cruelty, such as the Protection of Women from Domestic Violence Act, 2005. They suggest that these alternative laws can provide the necessary protection without the harsh consequences associated with Section 498A.

### Arguments Against Repeal

#### 1. Protection of Women:

- Proponents of Section 498A argue that the law remains a crucial tool for protecting women from domestic violence and cruelty. Despite the allegations of misuse, they contend that the provision has been instrumental in bringing justice to countless women who have suffered abuse. Repealing the law, they argue, would weaken the legal framework designed to protect vulnerable women, especially in a society where domestic violence remains a significant issue.

#### 2. Need for Reform, Not Repeal:

- Instead of repealing Section 498A, many experts advocate for its reform. They suggest introducing safeguards to prevent misuse, such as mandatory preliminary investigations before arrests, or making the offense bailable. Reforms could strike a balance between protecting genuine victims and preventing the wrongful persecution of innocent individuals.

#### 3. Judicial Oversight:

- The judiciary has already taken steps to address the misuse of Section 498A by issuing guidelines and emphasizing the need for judicial oversight in cases under this provision. Rather than repealing the law, the focus should be on ensuring that these guidelines are consistently implemented, and that law enforcement agencies exercise due diligence in investigating complaints.

#### 4. Societal Context:

- The social context in which Section 498A operates is also an important consideration. In a society where domestic violence and dowry-related harassment are still prevalent, the law serves as a deterrent and a means of recourse for women facing abuse. Repealing the law could send a negative message about the state's commitment to addressing gender-based violence and protecting women's rights.

The debate over whether Section 498A IPC should be repealed is complex and multifaceted. While the misuse of the provision is a valid concern, outright repeal could undermine the protection it offers to women facing genuine abuse. A more balanced approach may involve reforming the law to introduce safeguards against misuse while retaining its protective intent. By refining the legal framework and ensuring proper implementation, it is possible to address both the concerns of misuse and the need to protect women from domestic violence and cruelty.

### **WHO ARE RESPONSIBLE FOR THE MISUSE**

The misuse of Section 498A IPC involves multiple parties, each playing a role in how this legal provision is applied or misapplied. While the law was enacted to protect women from cruelty, especially in the context of dowry-related harassment, its misuse has become a significant concern. Here's a detailed look at the parties responsible, including the investigating agencies:

#### 1. Complainants (Misuse by Women or Their Families):

- A primary source of misuse stems from situations where women or their families file false or exaggerated complaints under Section 498A. Such complaints may be motivated by malice, personal vendettas, or strategic advantages in marital disputes, such as divorce proceedings or child custody battles. The provision's stringent nature, which allows for the immediate arrest of the accused without preliminary investigation, is sometimes exploited to exert pressure or seek revenge against the husband's family.

#### 2. Legal Advisors or Advocates:

- Some legal professionals may play a role in the misuse of Section 498A by advising clients to file false or exaggerated complaints. This advice can be given to gain leverage in matrimonial disputes, secure favorable financial settlements, or apply pressure on the husband's family. Lawyers who prioritize winning cases over ethical considerations may contribute to the exploitation of this legal provision.

### 3. Police Authorities:

- The police, as the initial point of enforcement, have a significant role in the misuse of Section 498A. In some cases, law enforcement officials may arrest the accused based on the complaint without conducting a thorough investigation. This can occur due to pressure to act swiftly, fear of accusations of negligence, or even corruption within the police force. Such actions can lead to the wrongful detention of innocent individuals, exacerbating the misuse of the law.

### 4. Investigating Agencies:

- Investigating agencies, including the police, play a crucial role in determining whether a complaint under Section 498A is genuine or fabricated. However, the effectiveness of these agencies is often compromised by inadequate investigation practices, lack of resources, or external pressures. In some cases, investigating officers may not thoroughly scrutinize the evidence, leading to wrongful arrests and charges based on unverified allegations. Additionally, there have been instances where investigating agencies are influenced by biases, corruption, or political pressures, which can further contribute to the misuse of the provision.

### 5. Judicial System:

- The judiciary also bears responsibility in cases of misuse. Although courts have acknowledged the potential for abuse and have issued guidelines to prevent it, the inconsistent application of these safeguards can result in the wrongful persecution of innocent people. The non-bailable and cognizable nature of Section 498A adds to the challenges, as accused individuals may face arrest and social stigma before a fair trial is conducted. The judiciary's role is crucial in ensuring that the law is applied justly, with proper consideration of both the rights of the complainant and the accused.

### 6. Societal and Cultural Factors:

- Societal norms and cultural pressures, particularly around marriage and dowry, can also play a role in the misuse of Section 498A. In some cases, families may use this legal provision to exert pressure or retaliate against the husband's family due to unresolved disputes or unmet dowry demands. These cultural factors can contribute to the exploitation of the law, as individuals may feel justified in using legal means to address personal grievances.

#### 7. Inadequate Legal Safeguards:

- The misuse of Section 498A is further facilitated by the lack of adequate legal safeguards. The law's non-bailable and cognizable nature means that the accused can be arrested without a warrant and detained without bail, often without sufficient evidence. This lack of procedural safeguards makes it easier for the law to be misused, particularly in situations where the investigating agencies do not conduct thorough inquiries before taking action.

The misuse of Section 498A IPC involves a complex interplay of various factors and parties, including the complainants, legal advisors, police authorities, investigating agencies, and the judicial system. Addressing this misuse requires a comprehensive approach that strengthens the legal safeguards, ensures thorough investigations, and balances the protection of genuine victims with the prevention of wrongful exploitation of the law.

### **SUGGESTED MEASURES TO AVOID MISUSE OF THE PROVISION**

Section 498A was made for protection of the married women who face threats and torture by their husband and in-laws but it is clearly misused by a few women. It is been the duty of the court to prevent wrongdoings and protect the victim (Married women) but there is also a need such remedies to prevent the misuse of this section when the victim turns into the abuser. There are such measures to avoid misuse of the provision. Suggested measures have been listed below:

- **Describe a clear definition of 'cruelty':** It is necessary that the wife must state a clear definition of the term cruelty which can help understand the authorities where the case is made, that the case against her husband is true or wrong.
- **Verification and Investigation:** Strengthening the investigative process to ensure thorough checks and balances before filing charges. This includes verifying claims through evidence and witness testimonies.
- **Judicial Oversight:** Ensuring that courts carefully examine or scrutinize the evidence and context of each case to prevent misuse and uphold justice.
- **Implement remedies against misuse of the provision:** Implementing remedies against misuse of Section 498A to ensure that the law is not used for personal dispute.

Several safety measures for the husband and his relatives when the wife can make a false case against them on the basis of Section 498A. Suggested remedies have been listed below:



### Remedies against misuse of Section 498A which provided by law

- **Defamation Lawsuit under Section 500 of IPC:** Husband has the right to file a defamation lawsuit under Section 500 of the IPC when the wife makes false claims of cruelty against her husband and in-laws.
- **Criminal conspiracy under section 120B of IPC:** Section 120B of the Indian Penal Code, talks about criminal conspiracy as an offence. If a husband has proof that his wife is involved in a criminal conspiracy that has resulted in false charges against him and his family members then the husband has the right to initiate a counter case against his wife for criminal conspiracy under Section 120B of the Indian Penal Code.
- **Providing false evidence under Section 191 of IPC:** Section 191 of the IPC says that 'providing false evidence' is a crime. If the wife provides false evidence against her husband then the wife can be challenged in court by filing counter case for wrongful framing.
- **Penalties for criminal intimidation under Section 506 of IPC:** If the wife has threatened physical harm to her husband and his family member then the husband has the right under Section 506 of IPC to file a counter-complaint against her, which deals with the penalties for criminal intimidation.

### Other remedies

- If the husbands believe that his wife has made a false complaint against him or he has been falsely accused, the husband will gather evidence and documents against his wife like call recordings, video recordings and messages anything which proves that the wife has made the false case against him.
- A man has the right to file an FIR against his wife if he has reason to believe that his wife fraudulently framed a case under Section 498A or his wife blackmailed him or his family which caused injury or distress to them.

These measures ensure that no one can able to misuse the Section 498A. These remedies main aim to balance between protecting victims of domestic cruelty and preventing the misuse of the legal system.

The Supreme Court has also provided certain guidelines that how to deal with cases under Section 498A to prevent misuse:

- One or more Family Welfare Committees must be established in every district by the District Legal Services Authorities to deal with cases filed under Section 498A.

- The police or Magistrate received all complaints under Section 498A of IPC and must be sent to the committee.
- The committee must look into the matter and send a report within 30 days to the authority who referred the complaint.
- The police are not able to arrest anyone who is accused under this complaint until a report is sent by the committee.
- All family member's presence may not be required in court, appearance by video conference must be allowed for outstation family members.

In the case *Neelu Chopra & Anr. vs. Bharati (2009)*, Neelu Chopra and Krishan Sarup Chopra are husband-wife and Bharati was their daughter-in-Law. In 1993 Bharti filed complaint against her husband and in-laws under Section 498A because her married life with her husband was not very smooth due to unreasonable demands of dowry and misbehaviour of her husband and in-laws. Rajesh expired in 2006 and the present case only lies against the in-laws.

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*Arnesh Kumar v. State of Bihar* in this landmark judgment, the court held that arrests should not be made in a routine manner and also laid down such guidelines to prevent the unnecessary arrest of the accused person, emphasizing that before arresting the accused person the police officer should be satisfied with the necessity for arrest under the parameters laid down in Section 41 of the Code of Criminal Procedure.

This judgment helps to prevent the misuse of Section. 498A and defend innocent individuals to avoid unnecessary harassment.

*Rajesh Sharma & Ors vs. State of U.P. & Anr. (2017)*, in this landmark judgement Supreme Court acknowledged the misuse of Section. 498A and issued guidelines to prevent the misuse. It suggested the formation of Family Welfare Committees in each district, which would examine the complaints filed under Section 498A before taking any action by the police.

This judgment helps to reduce the number of false cases and implement safeguards for the rights of those accused persons under Section 498A.

***Preeti Gupta v. State of Jharkhand (2010)*** In this case, the Supreme Court expressed concern over the growing tendency to misuse Section 498A as an easy tool for harassing of husband and his family members. The Court highlighted the need for a serious relook at the entire provision and its practical application. The court also emphasized the need to avoid false complaints and misuse of Section 498A and balancing protection and misuse.

This judgment brought attention to the potential misuse of Section 498A and called for reforms to ensure that the law is not exploited.

***Satish Chandra v. State of Madhya Pradesh (2009)*** In this case the Court clearly held that mere allegations of cruelty under Section 498A without substantial evidence are insufficient for prosecution. It helps to avoid misuse of this provision.

These cases also reflect the judiciary's efforts to balance the protection of victims of domestic cruelty and prevent the misuse of the legal system.

### **WHETHER THE PROVISION IS ONE SIDED**

There is such dispute between this argument that Section 498A is one-sided or not. It is true that Section 498A deals with the protection of women to the cruelty which is done by their husbands and their family members. But the provision is not one-sided because it also helps to prevent misuse of this provision by women, this provision also provides such remedies like defamation lawsuits, criminal conspiracy, providing false evidence, penalties for criminal intimidation and others etc. which are already briefly discussed in the point suggested measures to avoid misuse. So, we say that Section 498A is not only one-sided, it is protecting both husband and wife who are truly innocent in the case under Section 498A.

We all know that the law is made to punished criminals who commit crimes, not innocent people. So, Section 498A is also made and implemented after bearing in mind that no innocent people will be punished by law.

## CONCLUSION

Section 498-A of the Indian Penal Code was enacted with the noble intent of protecting women from cruelty and harassment within their marital homes, particularly in the context of dowry-related abuse. Over the years, however, the application of this provision has sparked considerable debate due to instances of its misuse. The challenge lies in balancing the protection of genuine victims with the prevention of wrongful accusations that can lead to unjust consequences for the accused.

While it is undeniable that Section 498A has been a vital tool in addressing the serious issue of domestic violence, the potential for its misuse cannot be overlooked. False or exaggerated claims not only harm the accused but also undermine the credibility of genuine cases, thereby weakening the effectiveness of the law.

The solution does not lie in repealing the provision but in reforming it to include safeguards that prevent misuse while still offering robust protection to those in need. Introducing measures such as mandatory preliminary investigations, judicial oversight, and making certain offenses bailable could help strike a fair balance. Ultimately, the goal should be to ensure that Section 498-A continues to serve its original purpose—protecting women from cruelty—while also safeguarding the rights of all individuals involved.

By refining the legal framework and ensuring its proper implementation, it is possible to uphold the integrity of the law and ensure that justice is served in a manner that is both fair and just.

## CITATION

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- i. *Shobha Rani v. Madhukar Reddi*, (1988) SCR (1)1010
  - ii. *Samar Ghosh v. Jaya Ghosh*, (2007) 4 SCC 511
  - iii. *Savita Bhatnagar v. V.K. Bhatnagar*, (2014) 1 SCC 329
  - iv. *K. Srinivas v. D.A. Deepa*, 2013(5) SCC 226
  - v. *Ram Kishan Jain v. State of Madhya Pradesh*, II(2000)DMC628
  - vi. *Surajmal Banthia v. State of West Bengal*, (2003)2CALLT164(HC)
  - vii. *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273
  - viii. *Rajesh Sharma v. State of U.P.*, (2017) 3 SCC 821

- ix. *Social Action Forum v. Union of India*, (2018) 10 SCC 443
- x. *Geeta Mehrotra v. State of U.P.*, (2012) 10 SCC 741
- xi. *Neelu Chopra v. Bharati*, AIR (2009) SC(Supp) 2950
- xii. *Savitri Devi v. Ramesh Chand*, (1991) 2 SCC 136
- xiii. *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 3363
- xiv. *Satish Chandra v. State of Madhya Pradesh*, (2009) 12 SCC 57

#### **BIBLIOGRAPHY:**

- i. K D Gaur, *INDIAN PENAL CODE* (Universal LexisNexis, 7th edn., 2020).
- ii. [Sidra Khan](#), “Misuse of Section 498A under IPC”, 18 August 2020, available at <<https://blog.ipleaders.in/misuse-section-498a-ipc/>> (25th August, 2024)
- iii. [Sanjana Santhosh](#), “Section 498A IPC”, 13 December 2022, available at <<https://blog.ipleaders.in/section-498a-ipc/>> (25th August, 2024)
- iv. Mahesh Tiwari & Associates, “20 leading judgments on 498A IPC”, available at <<https://www.maheshtiwarilegal.com/important-judgments/20-leading-jugments-on-498a-ipc>> (25th August, 2024)
- v. “What is Section 498A of the Indian Penal Code (IPC)?”, 26 August 2023, available at <<https://vajiramandravi.com/upsc-daily-current-affairs/prelims-pointers/what-is-section-498a-of-ipc/>> (25th August, 2024)
- vi. [Shalu Gothi](#), “Cruelty under the Hindu Law”, 11 March 2020, available at <<https://blog.ipleaders.in/cruelty-under-the-hindu-law/>> (25th August, 2024)
- vii. Yanamala Lokeswari, “Cruelty as Ground of Divorce” available at <<https://www.legalserviceindia.com/legal/article-13600-cruelty-as-ground-of-divorce.html>> (25th August, 2024)
- viii. Shwetapunia, “Section 498A IPC: Unraveling Misuse And Relevant Case Laws” available at <<https://www.legalserviceindia.com/legal/article-12725-section-498a-ipc-unraveling-misuse-and-relevant-case-laws.html>> (25th August, 2024)
- ix. Prashu, “Misuse Of Section 498A in Today’s Era And Its Protection” available at <<https://legalserviceindia.com/legal/article-8141-misuse-of-section-498a-in-today-s-era-and-its-protection.html>> (25th August, 2024)
- x. “INDIA’S NOTORIOUS SECTION 498A: DIVORCE LAW AS CRIMINAL LAW” available at <<https://www.international-divorce.com/Indias-Notorious-Section-498A.htm>> (25th August, 2024)



- xi. “Section 498A I.P.C.- Its Use & Misuse” 25 February 2011, *available at* < <https://www.legallyindia.com/views/entry/section-498a-of-ipc-its-use-misuse-html>> (25th August, 2024)
- xii. Ruchika Mohapatra, “Misuse of Section 498A of IPC: Cruelty by Husband or Relative of Husband” May 09, 2024, *available at* < <https://www.lawctopus.com/clatalogue/clatpg/section-498a-of-ipc-cruelty-by-husband-or-relative-of-husband/>> (25th August, 2024)
- xiii. Swati Shalini, “How to protect yourself against IPC Section 498a” 1st February 2024, *available at* < <https://www.myadvo.in/blog/how-to-prove-a-false-498a-case/>> (25th August, 2024)

