



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Misuse Of Section 498A

The Supreme Court calls section 498A as legal terrorism as it is used by women to harass their husband and in-laws. <sup>1</sup>**Section 498A in The Indian Penal Code, 1860 498A.**

Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purpose of this section, “cruelty” means—

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

This section also includes physical and mental cruelty done by husband or by his family members which means it includes grandparents of husband, members which are not residing with them. This section being non-bailable and cognizable offence gives power to police to arrest husband and his family members without warrant and no investigation done which makes it impossible for them to prove their innocence. The main objective of this section was to protect women from being harassed for dowry, to decrease dowry death and punish the wrongdoer. But, as time changes the essence of this section has lost and it is being misused by the women to harass husband and her in-laws which is being shown with data and Supreme Court and High Court judgement. The provision was added in 1983 to help women and to support this Domestic Violence Act, 2006 was enacted but since 2014 it is being misused.

---

<sup>1</sup> The Indian penal code 1860. [Indiansnoon.org/doc/538436/](http://Indiansnoon.org/doc/538436/)

Kiran Rijiju member of Lok Sabha said that out of 639 people charged under Domestic Violence Act only 13 people were convicted and other were dismissed due to incorrect facts in 2014. A study done by <sup>2</sup>PGIMS Rohtak and Maharishi Markandeshwar Institute of Medical science and research , **Ambala professor conducted cross- sectional study of gender based violence against man in rural area of Haryana in 2019** shows **52.4%** man experience gender based violence **51.5%** out of **1000** men experience violence at the hand of their wives in which **51.6%** man faces emotional violence and **6%** physical violence these data shows that cruelty can be done by women and the law being unbalanced leads to misuse by women and dangerous for men. In the case **Arnesh Kumar v. State of Bihar**<sup>3</sup> (2014) 8 SCC 273

,Supreme Court discussed and touched upon those aspect and said, the Section 498 has been powerful weapon for this green tilt without any evidence due to non-bailable and cognizable nature of law and guided all police officers to be provided with the checklist under **section 41 of CRPC which gives 9 points to check whether the case fall under it or not.**

It is anti- social as marriage related matters are under criminal law it is non bailable so for arresting warrant is not necessary even no investigation is necessary and this shows the defenseless of the accused taking away their basic rights as humans. Any relative of husband can be arrested and by this old parents who lived with dignity and respect have to live with the stigma of harassing their daughter in law for the rest of the life as per the **report of <sup>4</sup>NCRB (National crime record Bureau)** cases registered under section 498A **550** were considered as false cases as facts were not correct and another **report of NCRB 2021**, shows **1.2 lakh men** had ended lives across the country out of which **37% men took the extreme step holding to the matrimonial dispute.** The false cases under section 498 A have taken many lives in India. Even the judiciary has given judgement and shown concern in cases like In 2005, The Supreme Court observed in <sup>5</sup>**Sushil Kumar Sharma Vs. Union of India (UOI) and Ors141 of 2005.**, that object is to strike at the roots of dowry menace. But by misuse of the provision a new **LEGAL TERRORISM** can be unleashed. The provision is intended to be used as a shield and not an assassin's weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears , <sup>6</sup>**Maniju Ram Kalita v. State of Assam (2009)(13 SCC 330)** , <sup>7</sup>**Vimal Kumar V. State of U.P (2021)(SCC 83,284)**,but the

---

<sup>2</sup><https://www.ncbi.nlm.nih.gov/pmc/aericles/PMC6437789/>

<sup>3</sup> (2014) 8 SCC 273

<sup>4</sup> <https://ncrb.gov.in/en/Crime-in-india-2020>

<sup>5</sup> 141 of 2005

<sup>6</sup> (2009)(13 SCC 330)

<sup>7</sup> (2021)(SCC 83,284)

enforcement is not being done .In summary, while Section 498A serves a crucial purpose in safeguarding women's rights, its misapplication underscores the importance of balancing justice with preventing abuse of legal provisions .It is high time to amend or improve the law as such it protects the women and as well as stops the false cases against the men. Measures like making mediation and counselling a necessary step before filling the case . Speedy disposal of cases with careful scrutiny of the section and differentiate between genuine and false complaints and these approaches by judiciary will ensure the provision achieves its goal without being misused and causing any harm to innocent people .