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The Weaponization of Penal Laws Navigating False FIRs in Matrimonial Disputes

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Introduction

Criminal Law exists as a shield against wrong, not as a sword in domestic warfare.

Yet across Indian courts and police stations, a trend is being noticed where penal statutes that were meant to protect women from cruelty are being used as an instrument of coercion during matrimonial disputes.

The most misused statute in such cases is Section 498A of the Indian Penal Code (now Section 85 of the Bharatiya Nyaya Sanhita), which protects women from dowry harassment. The section punishes the husband or his relatives for subjecting women to cruelty. This particular section has become a tool for personal vengeance in several cases.

The Law and Its Intent

Section 498A of the Indian Penal Code was introduced in the year 1983. It made ‘cruelty.’ By the husband or his relatives, a cognizable, non-bailable offence, which is punishable with up to three years of imprisonment with fine.

This provision was implemented to protect women from the rise of dowry-related mishaps, such as dowry death and grievous physical injuries, post-independence.

This section covers two types of cruelty:

- Wilful conduct endangering a woman's life or health
- Harassment to coerce an unlawful property demand

Other than Section 85 of the Bharatiya Nyaya Sanhita, the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, and the provisions of maintenance under Section 144 of the Bharatiya Nagarik Suraksha Sanhita are widely misused against men, maximizing pressure on the accused and his family.

The Scrutiny of Misuse

A false case of the Sections stated above forms a part of a coordinated strategy, which includes a criminal complaint along with the charges of maintenance, divorce, and domestic violence.

The non-bailable character of these charges leads to arrest, loss of employment, social stigma, and, most importantly, it leads to mental and emotional trauma for the victims of such false cases.

A contrastingly troubling feature is the involvement of the in-laws and the extended family members who have minimal connection with the matrimonial dispute, merely for negotiations, and mounting pressure. The data collected by the National Crime Records Bureau showcases a sober story. It states that the conviction rate of the cases filed under Section 85 is 15%-20%, which means out of the hundred cases filed under the section, only about fifteen to twenty people are actually proven guilty in the court. The statistics show that the law is being highly misused and overused to make a case stronger, especially in matrimonial cases.

The Response of the Judiciary

The Supreme Court responded with the landmark judgment of *Arnesh Kumar v. State of Bihar*. The Court was alarmed by the number of arrests of husbands and in-laws within hours of filing an FIR. The court stated that:

"Arrest brings humiliation, curtails freedom, and casts scars forever... Before a police officer arrests a person, he must satisfy himself that the arrest is necessary."

The court in this judgment stated that the police should check the necessity of the arrest before making any move, and magistrates were barred from authorising detention mechanically. The court further stated that Section 85 had become a tool of personal vendetta and spite.

Subsequently, in the other landmark judgement in *Kahkashan Kausar v. State of Bihar (2022)*, the Court stated that criminal liability is individual, not familial. The apex court quashed the FIRs filed against the in-laws on the pretext of them being vague.

Through these judgments, the Court has not dismantled the provisions of the protective function, but it has restored the integrity of the judiciary.

Legal Remedies Available for the Falsely Accused

Although the legal system in India is inclined towards women in general, it also offers few avenues for those facing a false matrimonial FIR:

- Anticipatory bail (Section 484 BNSS): This remedy is effective where allegations made are vague, and the accused has no criminal history. This is the first and most urgent remedy available in such cases.
- Quashing of FIRs (Section 528 BNSS): In cases where the FIR does not disclose a prima facie offence or where a settlement has been reached between the parties, in such cases the High Court may quash the proceedings.
- Complaint for false information (Section 217 BNS): A person who knowingly files a false FIR is criminally liable.
- Civil Suit for malicious prosecution: A successful acquittee may sue for damages where a complaint is filed maliciously to demean the individual concerned.
- Criminal Defamation (Section 356 BNS): A separate defamation case can be filed to seek redress for the damages caused to one's reputation and standing.
- False charge of offence (Section 248 BNS): Criminal proceedings can be initiated against the complainant for initiating criminal charges with malicious intent.
- Mental cruelty: In such cases where false FIRs are filed against an individual, it may cause certain mental torture to the person concerned. In such cases, a man can invoke certain provisions in the Bhartiya Nyaya Sanhita, including Criminal Intimidation (Section 351), Extortion (Section 308), and Intentional Insult (Section 352).

The Path to Reform

Bringing reforms to this sector is a challenging job, as the cases against women are also increasing day by day, and bringing reforms while protecting the victims is a tedious job. According to the NCRB data, dowry deaths are exceeding 6000 annually, which is a reminder that the problem of dowry harassment is still inherent in the country. Reforms should be enforced in such a manner that no real victim is harmed, such as a mandatory pre-arrest inquiry, specific attribution of conduct to each accused, fast-track adjudication, and systematic prejury enforcement where the court finds falsity. Such reforms can target the misuse without weakening the protective side of the law.

The Bhartiya Nyaya Sanhitas introduction of a compounding framework for Section 85 offences is a step in the right direction, reducing the misuse of the provision.

Conclusion

The weaponization of penal laws in matrimonial disputes victimises the innocent and, paradoxically, undermines the credibility of the protection of genuine victims. When dowry harassment, domestic violence, etc., becomes a regular allegation in every contested divorce, women who truly suffer find their voices less credible. We can say that such false cases harm both men and women if they are innocent. The Supreme Court judgment in the Arnesh Kumar case remains the governing principle, which states that arrest is a grave curtailment of liberty that demands proper justification, not a reflex triggered by the filing of a complaint. Until this principle is internalised in the criminal justice system and reforms are made, false FIRs will remain the most accessible and most corrosive weapon, especially in matrimonial disputes.

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