

**CRITICAL EVALUATION OF SECTION
498A OF INDIAN PENAL CODE IN THE
LIGHT OF RECENT GUIDELINES GIVEN
BY SUPREME COURT**

**A DISSERTATION TO BE SUBMITTED IN PARTIAL
FULFILMENT OF THE REQUIREMENT FOR THE
AWARD OF DEGREE OF MASTER OF LAWS**

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CERTIFICATE

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I wish his success in life.

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ABBREVIATIONS

A.P.	Andhra Pradesh
AIR	All India Reporter
ALT (Cri)	Andhra Law Times (Criminal)
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CLT	Calcutta Law Times
Cr PC	Code of Criminal Procedure
GOI	Government of India
HC	High Court
ICCPR	International Covenant on Civil and Political Rights
IPC	Indian Penal Code
NCT	National Capital Territory of Delhi
Ors.	Others
SC	Supreme Court of India
U.P.	Uttar Pradesh
UDHR	Universal Declaration of Human Rights
UNCAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UOI	Union of India
V.	Versus
Vol.	Volume

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CHAPTER-I

INTRODUCTION

1. Title of Research:

“Critical evaluation of section 498A Indian Penal Code in the light of recent guidelines given by Supreme Court”

2. Introduction:

Although Indian civilization has a rich cultural heritage, it is still in its infancy in terms of material development. We live in the twenty-first century, and family life in this digital era is not hopeful, with the distance between partnerships expanding. Discrimination against women is on the rise, yet there are still few women who are treated equally. In today's world, material culture rules, and we can see this reflected in marriage relationships. In our culture, dowry has become a curse. The number of dowry deaths is on the rise. The Indian ladies were subjected to a great deal of misery and abuse.

Many dowry deaths occurred in India throughout the 1980s. The number of Dowry deaths has been steadily increasing. The in-laws of married women compelled her to satisfy demands in the form of money, products, property, and so on. If she did not comply with their demands, she was subjected to assault, which may result in her death.

Women were subjected to much too much cruelty by their husbands and in-laws. Marriage, which was formerly seen as a union of two souls and two families, is today viewed as a commercial relationship. Marriage has become marketed. Certain laws were deemed necessary to assist women in accessing justice. Many groups have asked the government to intervene and pass suitable laws to put an end to the practise. In order to safeguard women from abuse by their in-laws, the government enacted

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Section 498A of the Indian Penal Code (IPC). The clause stipulated a three-year sentence as well as a monetary fine. The term 'cruelty' has been defined broadly in this section. It encompasses both physical and emotional trauma to a woman's body. Harassment with the intent of forcing her or her family to meet with anybody.

This part also encompasses the illegal demand for property or security. The crime is cognizable, non-compoundable, and non-bailable under section 498A of the Indian Penal Code.

This section defines the term "cruelty," which is not defined anywhere else in the law. It happened as a consequence of the husband's and his relatives' avarice. Prior to the passage of this Act, cruelty was used to describe the suffering of animals and prisoners. Cruelty was the term used to describe the treatment of animals by their masters. Cruelty is also one of the reasons for marriage divorce. Women all throughout the globe have been subjected to inhumane treatment in some way. At the household level, India sees a lot of violence against women. Violence against women was seen not just in lower economic strata, but also in all strata, regardless of caste or religion. Violence against women is becoming more widespread, especially in Indian culture. There were no laws protecting women from domestic abuse prior to the introduction of the current Act in 1983. Due to the significant rise in dowry fatalities, numerous groups working to protect women from dowry violence demanded that laws be enacted particularly to protect women from the injustice. The Indian Penal Code, the Indian Evidence Act, and the Dowry Prohibition Act have all undergone substantial revisions and alterations. To protect women from assault, all of these revisions were additional and complimentary to one another. Following the introduction of section 498A of the Indian Penal Code in 1983, section 304 of the Indian Penal Code was established in 1986 as a complement.

The clause was being abused by women who extort their husbands and in-laws, according to the Supreme Court and High Courts. As a result, the Court and the Law Commission suggested changes.

In the case of *Preeti Gupta v. State of Jharkhand*, the Supreme Court said that a thorough review of the statute by the legislature is urgently required. "It is common known that inflated accounts of the occurrences are reflected in a substantial percentage of complaints," the Court said Marriage is a social sanction that allows a man and a woman to live together and have children. It is the husband's responsibility to provide for his wife, children, and other family members' economic and social requirements. The woman, on the other hand, is responsible for raising the children and ensuring emotional stability. The dowry system has thrown the whole family into disarray. With the introduction of dowry, a materialistic culture was brought into family life, and the expectation of valued stuff increased to the point that women were harassed to the point of death. Love, understanding, sacrifice, trust, and adaptability are all required in matrimonial relationships. Due to the intricacy of social relationships, marriage relationships have also grown complicated. To resolve conflicts between husband and wife, they turn to the law, that is, legal laws. The older member of the household has no voice in the issue, and the Panchayat has no input. Our family life has evolved to a far larger extent than society has. People have little time for one another. They despise the family's senior members interfering in their personal affairs. Marriage is a social, as well as a legal, institution. Marriage rituals are held on a big scale to demonstrate economic status. Every bachelor expects monetary gain from his would-be wife at the moment of marriage, and when his expectations are not met, he gets aggressive and abuses his spouse inhumanely. It has also been noticed that highly educated individuals use violence to satisfy their need for prized security. Men, although being educated and civilised, abuse women, making family life difficult. The girl used to get presents from her parents at the time of marriage out of love and also to give protection during unanticipated situations since she had no title to her maternal property, had no education, and was economically dependent. Later, these presents were required as though they were rights of the bridegroom and the bride's parents, and failing to do so was considered harassment. Matrimonial disputes are handled with under civil law all around the globe, but in India, a criminal provision is granted to women in addition to civil law to

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protect them from violence, demonstrating the seriousness of the injustice they face. Women in India have been subjected to domestic abuse for millennia. They are not treated with respect.

Humans have faced several challenges, both physically and intellectually. She was responsible for household duties but had no voice in family decisions. She was denied her rights as a daughter, sister, wife, and mother. Her function was always secondary in a patriarchal culture. Even when she has sought economic stability, her position has remained secondary, and the violence has worsened. The rate of violence against women is frighteningly rising. The number of dowry killings is rising, with young women being battered to death in the pursuit of precious items. There have been several cases of married ladies being burned. Women have shown themselves in every sector by putting in long hours at work and at home, but they have been unable to shed the stereotype of being the weaker portion. The Indian Constitution guarantees equal rights to men and women, yet she has yet to participate in society.

3. Scope of Research:

The researcher plans to look through all of the laws passed in India and across the world that pertain to women's cruelty. The researcher also plans to look at case law pertaining to laws protecting women from cruelty. The following are the laws that would be dealt with to address the matter under investigation:

i. Indian Penal Code, 1860, Section 304 B:

Section 304B of the Indian Penal Code deals with cruelty in a roundabout way. Actually, this part describes a woman's dowry death. It stipulates that if a woman dies as a result of being burned or having any physical damage during seven years of marriage, it is punishable by death. She should be subjected to brutality or harassment by her in-laws, including her husband or any of his relatives, before she dies.

ii. Indian Penal Code, 1860, Section 306:

Section 306 of the Indian Penal Code deals with the crime of abetment to suicide. Abetment to commit suicide, according to this provision, is a crime punishable by law.

Although section 306 of the Indian Penal Code does not explicitly address the phrase cruelty, it does address the term abetment.

iii. 1872 Indian Evidence Act:

The Indian Evidence Act of 1872, often known as Lex Fori, is the ultimate legislation in India regulating all elements of evidence in court proceedings. It is mostly based on English evidence law.

a) Section 113A - According to Section 113A of the Indian Evidence Act, the court may conclude that the woman's death was caused by harassment or abuse, for which she committed suicide. It implies that there must have been cruelty or harassment, and the lady must have committed herself shortly after or within a reasonable amount of time; only then can there be a presumption of abetment to commit suicide.

b) Section 113B - The woman's death must have been caused by abuse or harassment in order to get dowry. This clause may only be used in the event of a dowry death. According to the explanation attached to section 113B of the Indian Evidence Act, the same definition of dowry death as specified by section 304B of the Indian penal code must be used.

iv. Section 198A of the 1973 Code of Criminal Procedure:

This section, headed 'Prosecution of Offenses Under Section 498-A of the Indian Penal Code,' specifies the circumstances under which the Court might take notice of an offence punishable under section 498-A.

v. Divorce and Marriage Laws:

Marriage and divorce laws are codified personal laws that lay out the requirements that must be met when a marriage is formed and when it is ended. In India, various religious rules apply to different individuals. All of these laws have one thing in common: cruelty as a reason for divorce.

a) Hindu Marriage Act, 1955: It should be noted that the word "cruelty" is used in this legislation solely in connection to Hindu marriages.

The dissolution of the marital relation in context In other words, under section 13(1) (i-a) of the Hindu Marriage Act, cruelty is considered a reason for divorce.

b) The Dissolution of Muslim Marriages Act of 1939: This statute precisely defines what constitutes cruelty, which is one of the grounds for divorce.

c) The 1869 Indian Divorce Act accepts cruelty as a reason for divorce. Cruelty as a cause for divorce is addressed in Section 10 (1) (x).

d) Parsi Marriage and Divorce Act, 1936: The statute, which applies to Parsi matrimonial relations, states that one of the spouses has subjected the other to cruelty or his conduct has been of such nature that it would be inappropriate for the court to order the applicant spouse to live with the other, there is a ground for seeking divorce.

e) Special Marriage Act of 1954: This Act applies to all Indians who have married under it, and it also allows them to seek divorce under it. This Act allows people of many religious backgrounds to marry.

vi. Protection of Women from Domestic Violence Act 2005:

The Protection of Women from Domestic Abuse Act of 2005 was enacted to safeguard women from domestic violence. Domestic Violence is defined under Section 3 of this Act. The Act applies to all women, including wives, mothers, sisters, widows, and female live-in partners. In brief, the Act safeguards all females living in the home.

vii. The idea of cruelty in international perception:

Cruelty is referenced in international treaties and declarations as well.

- a) Article 5 of the 1948 Universal Declaration of Human Rights (UDHR): Recognizing the demoralising and destructive consequences of torture and cruel treatment, the UDHR has added this clause.
- b) Article 7 of the 1966 International Covenant on Civil and Political Rights (ICCPR): Article 7 of the ICCPR introduced a new dimension to cruelty, namely, using individuals for medical experiments without their permission.
- c) Declaration on the Elimination of Violence Against Women, Article 3(h): The 1993 statement acknowledges women's rights and freedoms in particular, and goes on to state that women have the right to be free from cruelty and that they need protection.
- d) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979: Though the term "cruel" is not used in the CEDAW, article 1 recognises that any hindrance to the enjoyment or exercise of recognised rights or freedoms constitutes "discrimination."
- f) UNCAT (United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment): Article 16 of UNCAT defines cruel as "any other types of torture that do not come within the limits of the definition attached to the word under article 1" and requires state parties to put an end to it.

4. Research Objective:

This study will assist us in comprehending.

- i. The law's implications.
- ii. To what degree does section 498A of the Indian Penal Code help women?
- iii. To what degree does it contribute to women's empowerment?
- iv. It will assist us in determining if it has aided women in making decisions.
- v. Women are impacted by society's inherent gender prejudice system. In a developing nation like India, the family and society are the key sources of social safety, and they fundamentally contribute to women's greater vulnerability by limiting them access to resources.

vi. Legislative improvements to address gender inequality and enhance a variety of women's socioeconomic results. The researcher wants to know how successful these efforts by the court and legislative have been.

5. Significance of Research:

- i. It will provide information on how to make required adjustments to current legislation.
- ii. It will encourage further study in the same area.
- iii. If marital cruelty laws are to be effective, the Court and Legislature must make modifications

6. Research Problem:

Is Section 498A of the Indian Penal Code efficient in providing justice to women?

7. Review of Literature

Review of a Book

a. M.P. Jain, Indian Constitutional Law: An Introduction

This book provides comprehensive coverage of constitutional law. It includes information on the three branches of government - the legislature, executive, and judiciary - at both the state and federal levels of government, as well as other issues. This book was very useful to the researcher in determining the constitutional legitimacy of the topic under investigation.¹

b. Supreme Court on Criminal Law, P.S.Varma:

This book focuses on Supreme Court decisions concerning criminal law issues. The book discusses the changes made to criminal laws in order to avoid the rise of anti-

¹ M.P. Jain, Lexis Nexis, Indian Constitutional Law (sixth Edition 2012).
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social behaviour in society. The book also examines how the Supreme Court has addressed these anti-social actions in its decisions.²

c. Diwan, c. paras, Family Law:

This work has helped the researcher grasp personal law in relation to several religions. The book provides information on weddings under Hindu, Muslim, Christian, and Parsi law. Divorce law, custodial and support law, guardianship and custody law are all covered in this book. Cruelty as one of the reasons for divorce, which was the study's emphasis, was examined in great depth.³

d. Dr. S. C. Tripathi and Vibha Arora, Women's and Children's Law:

The author examines two pieces of legislation in this sixth edition: the Protection of Women Against Sexual Harassment at Workplace (Prevention, Prohibition, and Redress) Act, 2013 and the Protection of Children from Sexual Offences Act, 2012. The author has also discussed recent Supreme Court decisions.⁴

e. Prof. S. N. Misra, Indian Penal Code: An Introduction

The book succeeds in providing a concise and easy-to-understand commentary on the Indian Penal Code. The meaning and aspects of crime are discussed in detail in each area. This book also covers all of the revisions that have been made so far. The book's substance has been further enhanced by the contributions of famous legal figures.⁵

f. Matrimonial Cruelty: A Study, f. A. K. Pradhan

² Premier Publishing Co., P.S. Varma, Supreme Court on Criminal Laws (2010)

³ Paras Diwan, Allahabad Law Agency, 2008, Family Law (eighth edition).

⁴ Central legal publications, Dr. S. C. Tripathi and Vibha Arora, Law Relating to Women and Children (sixth edition 2015).

⁵ Central Law Publications, Prof. S. N. Misra, Indian Penal Code (nineteenth edition), 2013

The book goes into considerable length about marital cruelty. Matrimonial cruelty cases have also been thoroughly investigated. Illegitimate children, fraudulent claims, court jurisdiction, and criminal remedies are all discussed in detail.⁶

g. Indian Constitutional Law: A Reader, g. M. P. Jain

Justice Ruma Pal and Samaraditya Pal have amended the sixth edition. The Author's points of view are upheld on both sides. The book not only covers constitutional provisions and amendments, but also includes the author's and other experts' opinions and comments.⁷

h. S. R. Myneni, h. Dr., Legal Research Methodology:

This book is dedicated only to legal research methods. This book is academically developed for law students to help them with their studies in many legal fields. This book was quite useful to the researcher when researching the topic. This book has well explained the notion of research.⁸

i. Human Rights, Dr. H.O. Agarwal

Human Rights were explored in six separate chapters in this book. It begins with an introduction that examines the history of human rights promotion and protection after the foundation of the United Nations. The book focused briefly on the implementation process, which is separated into two Covenants and optional protocols to the Covenants. The book went on to detail the

Various states have made legislation and taken initiatives to preserve human rights. The book helped the researcher much by providing information on the notion of cruelty and Human Rights as defined by the international covenant.⁹

j. Law Relating to Human Rights, j. Adv. Nayan Joshi

⁶ G. R. Arora for The Matrimonial Law Report, A. K. Pradhan, Matrimonial Cruelty, 1996

⁷ Indian Constitutional Law, M. P. Jain (sixth edition 2012) Wadhwa Nagpur Lexis Nexis Butterworths

⁸ Allahabad Law Agency, Dr. S. R. Myneni, Legal Research Methodology (fifth edition, 2012).

⁹ Human Rights, (fifteenth edition) 2014, Central Law Publications, Dr. H. O. Agarwal.

The 1993 Protections of Human Rights Act is briefly discussed in this book. The National Human Rights Commission and the State Human Rights Commission were both established and appointed in the book. This book also looks at the commission's authority and function, as well as the regulations of the Human Rights Court and Special Public Prosecutor, both of which were quite useful to the researcher.¹⁰

B. Article Review

a. Cruelty in Marriage: An Analysis of Supreme Court Cases on Section 498A of the Indian Penal Code:

The article lists significant instances under Indian Penal Code Section 498A. From 2006 to 2015, the table below depicts the disposition of cases filed under section. These tabular formats of data assist the researcher in analysing the cases that have been filed, convicted, and dismissed under the provision.¹¹

b. Ramanuj , Understanding Section 498A of the Indian Penal Code in Relation to Domestic Violence:

This article provided the researcher with information on the evolution of Indian Penal Code section 498A and several legal provisions connected to the idea of cruelty.

8. Hypothesis:

The study hypothesis is that section 498A of the Indian Penal Code fails to provide women with justice.

9. Data Collection Sources:

Data from secondary sources may be both published and unpublished. This information has already been gathered using original sources referred to by the researcher. The person who gathers data is not the one who utilises it. Secondary data

¹⁰ Kamal Publishers, Adv. Nayan Joshi, Law Relating to Human Rights, 2010

¹¹ Cruelty in Marriage: Analysis of Supreme Court Cases on Section 498A, IPC, Divyansh Hanu Rathi, <https://www.latestlaws.com/articles/cruelty-marriage-analysis-supreme-court-cases-section-498a-ipc-divyansh-hanu-rathi>

is used by the individual who uses the data. Because collecting main data takes more time, resorting to secondary data to find a rapid answer is possible and simple. Secondary data is also required to better comprehend the current situation using historical data.

Secondary data sources are employed to gather information for the study.

i. Government Documents: Government documents are information released by the government to the general public via different forms of media. Trials, information on the government's administration and policies, law, national and international agreements, and so on are among the papers made public.

ii. Statutory Provisions: Statutory provisions specify the scope of the legislation. It is a branch of law that deals with a particular topic.

iii. Text Books: A text book provides information on a certain topic in order for the reader to get familiar with the subject's concerns. It provides us with detailed knowledge about the issue at hand.

iv. Case Laws: Case Laws are court decisions on specific issues that are published in the public domain, such as Manupatra, SCC Online, Indian Kanoon, and All India Reports.

v. Parliamentary Debates: Parliamentary Debates are the examination of a bill proposed in parliament with the purpose of advancing or rejecting it based on the reasons presented. The study of such disputes may provide light on the origins and inevitability of particular laws' emergence.

Quinquennial Digests: Quinquennial Digests are documents from the previous five years on a certain topic. They assist the researcher in gaining a better understanding of the issue.

vii. Index to Indian Legal Periodicals: The Index to Indian Legal Periodicals is a formatted collection of notable law journals, magazines, and papers connected to law published in India from 1926.

viii. Supreme Court and High Court Precedent: A statement made by the Courts in the course of considering a specific case that is binding on all subordinate courts in

comparable situations. The Supreme Court justices' statements are binding on all subordinate courts.

ix. Internet: The internet is a computer network that allows anyone to access information on any topic from anywhere in the globe at any time. It is a less expensive and more readily accessible data collecting instrument. It's a time and money-saving platform for accessing all of the material that's freely accessible in the public domain throughout the globe.

10. Research Methodology (Research Methodology Used to Conduct Research):

This study is solely doctrinal in nature. It was carried out using the library technique. Concepts, doctrines, legislation, and precedents are all examined as part of the inquiry. The process of doctrinal research is separated into two parts: -

a) Discovering the Origins of Law

c) Apply the law to the issue at hand and interpret and evaluate it.

In this process, relevant facts are gathered first, legal elements are identified, and then facts are examined to reach applicable conclusions. It is a kind of library-based study that works with documentary data that differs from material gathered via direct evidence. Logic reasoning is used to appropriately assess the law provisions. This technique aids in enacting required legal reforms to reflect changing societal situations. Legal provisions are thoroughly studied using precedents, legal articles, publications, mass media, books, journals, and other sources.

11. Important Concepts:

The researcher has utilized the following concepts in her research:

i) Cruelty:

The word cruelty is defined as, “Cruelty refers to unkind or mean acts, or indifference to someone’s feelings or emotions.”¹²

The word “Cruelty” has been extensively defined under Indian Penal Code which includes not only harassment done by the husband but also by his relatives. The concept of cruelty is defined only under section 498A of Indian Penal Code, which covers physical and mental damage incurred upon the married women in claim of material gain from her and her parents. The demand is with such force that it may impel her to commit suicide. What amounts to cruelty is a subjective matter depending upon the background of the person, economical status, education, mental state of mind and family. Due to this broad application of the word cruelty, it is difficult to judge or interpret the act that falls under it.

ii) Dowry :

The term dowry is used for the gift given by the bride’s parents or her relatives to bride groom, his parents, or his relatives at the time of marriage. Traditionally the concept of dowry meant to give economic support to the newly wedded couple and was a voluntary act on the part of brides’ family. In the current society the concept of dowry has now taken a mandatory and compulsory position. This obligatory nature of dowry commercialized the marriage system. The demand of dowry kept on increasing and those brides who could not afford to meet the demands were subjected to torment. This resulted into introduction of Dowry Prohibition Act, 1961 which defines dowry as follows:

“Dowry means any property or valuable security given or agreed to be given either directly or indirectly:

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the

¹² THE YOUR DICTIONARY (Apr. 24,2019 , 02:45 PM), <https://www.yourdictionary.com/cruelty>.
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marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.”¹³

iii) Dying Declaration:

Dying declaration is the statement made by the person when he is about to die and who will not be present later to give the evidence of any crime committed against him that resulted in his death or in relation to the circumstances that led to his/her death. It is said that dying declaration is said to be the true statement as a dying person will not tell lies. Section 32 (1) of Indian Evidence Act lays down the definition of the term dying declaration.

In *Tapinder Singh v. State of Punjab*, the Supreme Court observe that “Dying declaration is a statement by person as to the cause of his death or as to any of the circumstances of the trans action which resulted in his death and it becomes relevant under Section 32 (1) of Indian Evidence Act in a case in which the cause of that person’s death comes into question.”¹⁴

iv) Harassment :

The word harassment means bullying someone on a regular basis. Harassment is found in different walks of life, that is, in school, college, workplace, family, social strata. It causes agony and pain in the mind of the person who undergoes this torment behavior.

v) Women Empowerment:

Women Empowerment means women are free to take their own decision relating to choosing her area of studies, type of career, life partner, and everything related to her life. The empowerment not only includes external barriers but internal as well from which she should achieve freedom.

¹³ Dowry Prohibition Act, 1961 (2.2)

¹⁴ AIR 1970 SC 1566

Chapter II

Dimensions of the concept of cruelty

1.INTRODUCTION

This chapter examines the historical and intellectual perspectives on female cruelty. The researcher wants to know when the lady first realised there was abuse directed at her. The chapter will also provide a review of all Indian laws relating to cruelty. Although cruelty is addressed under section 498A of the Indian Penal Code, it is also addressed in other legislations, but in different settings.

2. Meaning of the term cruelty incorporated in different legislations:

Other legislative parts that directly or indirectly relate with the word cruelty have been included in the scope of the chapter by the current researcher.

- A. Section 304 B , The Indian Penal Code, 1860
- B. Indian Penal Code, Section 306 (1860).
- C. Indian Evidence Act , 1872.
 - i. Section 113A
 - ii. Section 113B
- D. Section 198A of the 1973 Code of Criminal Procedure.
- E. Divorce and Marriage Laws:
 - i.Hindu Marriage Act, 1955.
 - ii.Dissolution of Muslim Marriages Act, 1939.
 - iii.Indian Divorce Act, 1869.
 - iv.Parsi Marriage and Divorce Act, 1936.
 - v.Special Marriage Act, 1954.
- F. Protection of Women from Domestic Violence Act 2005

A. Section 304 B , The Indian Penal Code, 1860

Section 304B of the Indian Penal Code deals with cruelty in a roundabout way. Actually, this part describes a woman's dowry death. It stipulates that if a woman dies as a result of being burned or having any physical damage during seven years of marriage, it is punishable by death. She should be subjected to brutality or harassment by her in-laws, including her husband or any of his relatives, before she dies. Thus, dowry death refers to a lady being subjected to such brutality that she dies as a result. To put it another way, if the woman is not exposed to cruelty and dies within seven years of her marriage, it will not be considered dowry death, and so section 304B of the Indian Penal Code will not apply. As a result, it should be mentioned that cruelty plays a critical part in determining who is responsible for the crime commission of the dowry death offence. The following fundamental factors must be proven in order to invoke section 304B of the Indian Penal Code.

- (i) The victimised lady should have suffered not only physical or physiological harm, but also mental agony that resulted in death.
- (ii) The death must have happened during the seven-year period after the marriage.
- (iii) The lady must have been subjected to mental abuse or harassment by her spouse or a relative (s).
- (iv) The claimed mental torture or harassment should be carried out with the intention of obtaining dowry.
- (v) Finally, it must be shown that the mental torture or harassment happened shortly before the woman's death. To put it another way, there must be a clear relationship between the woman's death and the abuse she suffered.

Even if the lady committed herself as a result of her in-laws' abuse, the word cruelty or harassment plays a crucial part in imputing culpability under section 304B of the Indian Penal Code. Even if the death was caused by suicide, the Supreme Court

declared in *Raja Lal Singh v. State of Jharkhand*¹⁵ that section 304 B of the India Penal Code would apply even if the suicide came after ten to fifteen days of harassment and brutality to the lady. The guiding line for determining guilt under section 304B of the Indian Penal Code is that the lady must have been harassed or cruelly treated "short before her death." However, since this phrase is not specified in the clause, the court must assess the duration of harassment or cruelty prior to the death, taking into account the facts and circumstances of the case¹⁶. Even while the time between harassment and cruelty that leads to death varies depending on the facts and circumstances of each case, this gap should be fair and one should be able to establish a plausible correlation between the cruelties perpetrated on the lady and her death. The prosecution must show or demonstrate that the lady in question was harassed for dowry and that the harassment occurred shortly before her death. The Indian Penal Code's Section 304B also establishes a rule of presumption that the death shall be presumed have happened during the first seven years of the marriage, and under questionable circumstances (s).

B. Indian Penal Code, Section 306 (1860).

Section 306 of the Indian Penal Code deals with the crime of abetment to suicide. Abetment to commit suicide, according to this provision, is a crime punishable by law. It should be emphasised that section 306 of the Indian Penal Code does not directly address the phrase cruelty; rather, it addresses the term abetment. Abetment may take several forms.

I Incitement – to commit suicide

(ii) Committing suicide via a conspiracy

(iii) Intentionally assisting someone in committing suicide.

Cruelty comes under the first category of abetment, which is suicide encouragement. To put it another way, cruelty is one of the causes that led to the worried woman's suicide. As a result, the phrase cruelty is integrated

¹⁵ III Cr. L.J. 3262 (2007) (SC).

¹⁶ *Kunhiabdulla v. Kerala State* (2004 Cr. L.J. 5005) (SC)

indirectly as one of the components of abetment to suicide in section 306 of the Indian Penal Code.

As can be seen from the previous discussion of the idea of cruelty, the word is not only difficult to define, but also very subjective. Cruelty varies from person to person, just as every woman's tolerance level does. Though there are several laws connected to cruelty, each statute has a distinct interpretation. Cruelty is usually associated with dowry demands, aiding a person's suicide, or mental and physical abuse under every legislation. The Supreme Court also believes that just demanding dowry does not constitute cruelty. To fulfil the components of section 498A or 304B of the Indian Penal Code¹⁷, it should always be followed by harassment or torture

C. 1872 Indian Evidence Act

Evidence is derived from the Latin word 'evidens' or 'evidere,' which means "to show clearly; to make plainly certain; to ascertain; to prove."

The Indian Evidence Act of 1872, often known as Lex Fori, is the ultimate legislation in India regulating all elements of evidence in court proceedings. It is mostly based on English evidence law.

i. Indian Evidence Act, 1872, Section 113A:

The Indian Evidence Act is a procedural legislation that specifies the method to be followed while gathering evidence and having it reviewed by the courts. It's important to recall that the Indian Evidence Act doesn't create any substantive offences; rather, it sets out the method for dealing with evidence, and it's the proving and disproving of evidence that determines if an offence was committed in the courts of law. According to Section 113A of the Indian Evidence Act, the court may assume that the woman's death was caused by harassment or abuse, for which she committed herself. It implies that there must have been cruelty or harassment, and the lady must have committed herself shortly after or within a reasonable amount of time; only then can there be a presumption of abetment to commit suicide. The word cruelty used in this section

¹⁷ Amar Singh v. Rajasthan State, AIR 2010 SC 339
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shall have the same meaning as that construed in section 498A of the Indian Penal Code¹⁸, according to the section's interpretation.

The Supreme Court has declared that the evidence must be proven that the dead woman's mistreatment or harassment induced her to commit suicide¹⁹ under section 113A of the Indian Evidence Act. As stated in Nilkantha Pati v. State of Orissa²⁰, the term cruelty is a very important term to impute liability under section 498A or 304B of the Indian Penal Code, because even if there is suicide within the stipulated period of seven years of the marital tie and cruelty is not proven, the presumption under section 113A cannot be applied. The Supreme Court issued a significant ruling in Vasanta v. State of Maharashtra²¹, in which it was declared that acts of cruelty and harassment done in the past and continued to be repeated for a long time.

A term of seven years would be considered cruelty under section 113A of the Indian Evidence Act, and the individual would be charged with abetment to suicide.

This section 113A of the Indian Evidence Act has used the words 'that the court may presume,' that if the essentials of this section are proved, presumption of abetment to commit suicide prevails. The word 'may' denotes directory provision and hence the court may or may not apply the rule of presumption according to the principles of interpretation of statutes. Further the Supreme Court has also held that if there is no established evidence to prove that the death was due to harassment or cruelty the rule of presumption as laid down in section 113A cannot be evolved²².

The section 113A of the Indian Evidence Act was not the part of the scheme of the original Indian Evidence Act; but was inserted in the Act by way of amendment in the year 1983. To control or curb the dowry deaths, the Indian Penal Code was amended and section 498A of the Indian Penal Code was inserted and hence corresponding change was made in the Indian Evidence Act and section 113A was inserted in it.

ii. Section 113B of the Indian Evidence Act,1872:

¹⁸ Jagdish Chander v. Haryana State, 2 R.C.R. (criminal) (1988). (P&H).

¹⁹ A.I.R. 1991 SC. 1532, State of Punjab v. Iqbal Singh

²⁰ Cr.L. J.2472, 30 1995.

²¹ Cr. L.J. 31 1987

²² State of Himachal Pradesh v. Nikku Ram A.I.R.1996 SC. 67.

The ingredients to attract this section are:-

- a) The woman faced cruelty or harassment by such person.
- b) The cruelty should be related to the dowry demand.
- c) The cruelty or harassment should have occurred soon before her death.

Hence for the legal presumption to be applied it is necessary that the death of the woman was caused due to cruelty or harassment for the demand of dowry. This clause may only be used in the event of a dowry death. According to the explanation attached to section 113B of the Indian Evidence Act, the same definition of dowry death as specified by section 304B of the Indian penal code must be used.

The researcher is of the humble opinion that in spite of the hard efforts on the part of the law and the legal system, to render justice and protect the women from the ill effects of the dowry system, still sometimes the law fails to protect the woman because of the legal technicalities of inability to provide the required evidence. To quote out of the many such instances is the classic case of *Shamlal v. State of Haryana*²³. In this case, the prosecution was unable to prove that the deceased lady was subjected to cruelty soon before her death; and it was proved that there was only persisting dispute regarding dowry between the lady and her in-laws. Not only this, but the parents had even taken their daughter from her in-laws house and kept her with them for one and a half year. This dispute regarding dowry had even reached the panchayat; and the panchayat had directed the lady to go back to her in-laws house, and within a period of ten to fifteen days the death of the lady occurred. A very unfortunate and sad fact which prevailed was that the cruelty or harassment within the period of fifteen days could not be proved and hence section 113B of the Indian Evidence Act and section 304B of the Indian Penal Code could not be applied in this case. One reasonably, on basis of common sense tends to think that in such a case injustice prevailed because sufficient evidence could not be established by the victim's parents. The current researcher believes that this is where the issue of delivering justice resides. The hands of the law fall short to do justice and hence some

²³ A.I.R.1997 SC 1830.

other substitute is required to fill this gap of establishing evidence in the court of law so that culprit can be punished. The researcher very courteously tries to forward the following solution in order to meet the needs of the justice:

a) Every lawyer must follow the rules of justice, ethics, and morality. Once he knows that the person who has come for his advice (in the above case the husband of the deceased lady) he should be frank and brave enough to tell that if an offence has been committed by a person he should admit such a fact in court instead of denying or concealing it. Instead of doing this the lawyer demands higher amount of money and helps the culprit to evade his liability with the help of law. Not only this but the lawyer scrupulously twists and turns the law so that the culprit, who is his client can successfully escape liability and go scot free from the clutches of the law and the legal system.

b) The people of the existing society should also participate in the administration of justice by fearlessly stating the facts in order to establish correct and accurate evidence to hold the culprit liable. The people should understand the fact that, the woman who has been harassed resulting into her death is not their daughter, but she is also somebody's daughter and requires justice to be done. Today, she is in need of justice and if people give her a helping hand by correctly reporting the truth, tomorrow perhaps when their own daughter may require similar help which she may also get, because the people will report the true facts and help the law and the legal process to administer justice.

c) The researcher would like to further state that every time we cannot blame the law when injustice prevails. So also every time the solution does not lie in making the amendments in the existing laws or by enacting a new law. For the law to effectively and efficiently function it requires the help of the society or the people because ultimately it is the evidence produced by the people upon which the culprits can be held liable or they can escape the clutches of the law. The equation of the law and justice is very simple, as follows :

Doing justice is the result of accurate and truthful reporting of facts or evidence.

Injustice is committed when facts or evidence are reported incorrectly or falsely.

No law collects evidence on its own; it is the people who give evidence that establishes the facts and circumstances of the case, and the offender is acquitted or convicted as a result.

The term 'shall presume' is used in Section 113B of the Indian Evidence Act, which is a mandatory provision according to the principles of statute interpretation²⁴. Though the aforementioned elements of the section are proven, the accused is deemed to have committed dowry death, even if he or she had no direct relationship with the person's death. To put it another way, if the fundamental elements of section 113B are established, the court is required to apply the legal presumption set out in the same provision. It should be emphasised, however, that both the legal provisions specified in sections 113A and 113B of the Indian Evidence Act may be contested.

D. Section 198 A of the 1973 Code of Criminal Procedure:

With the addition of section 498A to the Indian Penal Code, the Parliament has put in place an efficient method to deal with the increasing threat of cruelty in the country.

Added section 198A to the Code of Criminal Procedure to provide the procedural rules that would govern the situation.

'Prosecution of crimes under section 498-A of the Indian Penal Code' requires the circumstances under which the Court may take cognizance of an offence punishable under section 498-A, namely:

- A police report detailing the facts
- Complaint made by or on behalf of a victim

The incorporation of this procedural provision created an effective and meaningful system to address the problem. A similar amendment was made to the Indian Evidence Act to make it easier to try such cases. This was clearly a well-thought-out modification with the goal of ensuring women's equality.

²⁴ Supra note at 33.

E. Divorce and Marriage Laws:

Marriage and divorce laws are codified personal laws that lay out the requirements that must be met when a marriage is formed and when it is ended. In India, various religious rules apply to different individuals. All of these laws have one thing in common: cruelty as a reason for divorce. The researcher intends to investigate all of these marriage provisions in order to gain a better understanding of the concept of cruelty.

i. Hindu Marriage Act 1955:

Only to the extent of determining the definition of the term cruelty, the researcher is referring to section 13(1) (i-a) of the Hindu Marriage Act. The researcher's humble attempt to determine the meaning of the term cruelty under section 13 of the Hindu Marriage Act.

To begin with, it should be noted that the term "cruelty" as used in this statute only refers to the dissolution of the marital bond. In other words, under section 13(1) (i-a) of the Hindu Marriage Act, cruelty is considered a reason for divorce.

There are many aspects to cruelty as a reason for divorce, including:

a. The definition of cruelty is determined by the following factors:

The Court must determine the meaning of the word cruelty in light of the facts and circumstances of the case, which means that the following considerations must be considered:

The period during which the facts of the case take precedence:

To provide an example of how the definition of cruelty varies depending on the historical period, fifty years ago, if the husband ordered the wife not to pursue her profession or employment, it would not be considered cruelty. However, it would be cruel if the husband today forces the wife to choose between pursuing her career and losing her job.

The location, social situation, or environment in which the couple lives:

In certain slums or rural places, a husband's modest beating of his wife might not be considered cruelty. In a contemporary or sophisticated culture, however, a simple act of mild slapping perpetrated on the wife might be considered cruelty.

Family's social and economic situation:

When determining whether or not cruelty exists, the Court must examine the family's social and economic circumstances. The definition of cruelty varies depending on a person's socioeconomic status. The denial of a required ingredient to a person from a lower economic stratum of society may not constitute cruelty, however the denial of a luxury to a high class wife may.

Apart from the elements listed above, the Supreme Court decided in *Savitri Pandey v. Premchandra Pandey*²⁵ that cruelty appears when the natural link of love and affection between the husband and wife is destroyed or shattered. The couple's love and affection are the foundation of marriage. It is the sense of worry and care that a husband and wife have for one another, and when this emotion is lost, it may lead to cruelty. People cannot be forced to love one other by law.

b. Physical abuse:

Cruelty is incomplete without physical violence. It encompasses all acts of violence, such as assaults and beatings, as well as any act that gives rise to a reasonable fear of imminent harm to life or any portion of the body. To put it another way, physical harm encompasses bodily damage, and the Court must determine the degree of the physical injury to determine whether it constitutes cruelty.

c. Mental cruelty:

Mental cruelty is included in the definition of cruelty as a basis for divorce under section 13 of the Hindu Marriage Act. Any psychological or emotional harm or injury done on a person would be considered cruel. In *Surabhi Agarwal v. Sanjay Agarwal*²⁶, the court stated unequivocally that mental cruelty can be more harmful or injurious than physical cruelty. Thus, insulting behaviour, teasing, excessive anger,

²⁵ A.I.R. SC 591, 2002

²⁶ 1D.M.C.453 (2000) 36

nonresponsiveness or frustration or lack of appreciation, or a lack of care or affection, or an inability to fulfil the normal and natural marital obligation may all be considered cruelty. Sometimes an act may include both physical and mental cruelty, such as locking a person in a certain location or starving a person by failing to give food.

d. Mens Rea- Not a requirement for proving cruelty:

There is no need to establish that the act of cruelty was done with the appropriate purpose if the act of cruelty is obvious and can be proven given the facts and circumstances of the case. In *P. L. Sayal v. Sarla Rani*²⁷, the Supreme Court declared that if the conduct that amounts to cruelty is so obvious, there is no need to establish the intention to be cruel. *Shobha Rani (Shobha Rani)*

*v. Madhukar Reddi*²⁸ has established that if an act properly qualifies as cruel, the purpose of cruelty does not need to be shown

With the passage of time, the definition of cruelty under section 13 of the Hindu Marriage Act of 1955 has evolved. What was formerly considered cruelty is no now grounds for divorce, and vice versa. With the passage of time, the injured party's criteria for requesting divorce has also altered. The act that taking care of the mother-in-law and father-in-law was a vital element of married ties, but it is now a condition for divorce. Making the spouse leave his parents is a big reason for divorce²⁹. In this case, the Court held that the woman must have a good cause to avoid her in-laws, and that she cannot compel her husband to avoid his parents. In a similar instance, the Nagpur Bench of the Mumbai High Court dismissed the appeal of a woman who sought to depart separately from her in-laws after threatening to file a criminal complaint against them under section 498A of the Indian Penal Code, which amounted to cruelty³⁰.

In comparison to section 498A of the Indian Penal Code, the definition of cruelty under the Hindu Marriage Act is substantially broader.

²⁷ Punj. 125, 37 A.I.R.1961

²⁸ Supra note at 23

²⁹ AIR 2016 SC 4599, *Narendra v. K. Meena*.

³⁰ *Smt. Bhawna v. Vijay Kumar* 2008

- Refusal to take part in the divorce proceedings:³¹

The Respondent declined to appear in court despite receiving legal notice, and the Appellant was forced to continue with marital bonds that had no future. The appeal was accepted because the court found that the parties were not interested in maintaining their relationship.

- Defamatory claims made against the spouse:³²

Mental cruelty occurs when a spouse makes inappropriate, inaccurate comments about the partner and his relatives that harm his and his family's reputation in company or at work.

- Apprehension in the spouse's mind that living with the party would be harmful:³³

Respondent (wife) was suffering from a mental illness, and as a result of her illness, she used to threaten her husband with suicide. The Appellant's life became a living hell because she used to act strangely in front of the outsiders, like; she embarrasses him in front of the landlord due to which he had to leave the rented house. Repeated threatening of committing divorce by the wife created apprehension in his mind that, he can no more live with her. The court allowed the appeal stating that it amounts to mental cruelty.

- Abusing the spouse:

Abusing the spouse to such an extent that the other party loses their self respect will amount to cruelty and is the ground for divorce. In SA v. AA³⁴ case, the Delhi High Court, stated that calling the husband 'Mota', has disturbed the husband to such an extent that he felt degraded and has lost his self esteem and amounts to mental cruelty and wanted to seek divorce. Abusing the spouse that he/she is born from prostitution³⁵

³¹ Sukhendu Das v. Rita Mukherjee AIR 2017 SC 5092

³² Raj Talreja v. Kavita Talreja AIR 2017 SC 2138.

³³ Pankaj Mahajan v. Dimple@Kajal 2012 1 AWC 983 SC.

³⁴ 2016(2) JCC 867

³⁵ Vinod kumar Subbiah v. Saraswathi Palaniappan AIR 2015 SC 2504

also amounts to cruelty and is the ground for divorce. Husband abusing the wife and calling her prostitution in front of her office members', amounts to cruelty.³⁶

➤ False allegations:

The wife made false allegation that her husband has forced her to indulge in prostitution is cruelty.³⁷ A couple having six children, completed thirty- five years of marriage; the husband files a divorce petition on the grounds that the wife is having immoral relations with her father is denied divorce as this amounts to cruelty towards wife.³⁸The wife makes false allegation against the husband stating that, he has sexual relations with his brother's wife, which was proved to be false. She even leaves her matrimonial home for the same reason, the court held the wife as guilty and granted divorce to the husband.³⁹

The wife after two unsuccessful marriages married the petitioner. The petitioner, filed divorce petition on the ground that the respondent made false allegation against his son, (from first marriage) that the son attempted adultery with her. She also made false allegation that he was responsible for her death. The fact was that the petitioner and his first wife were happily married for thirty years and she died of heart attack. The divorce was granted to the husband on the grounds of false allegation amounting to cruelty.⁴⁰

➤ Unintentional act also amounts to cruelty:

A spouse commits an act with good intention, but if due to that act the other party suffers then such act amounts to cruelty. That is to say that mens rea has no role to play in proving or disproving cruelty under Divorce Act.⁴¹

➤ Coming late:

³⁶ Kala kumari v. Ram Bhavan Anand, AIR 2004 All 54.

³⁷ Roshi v. Sher Singh, 2005 (1) HLR 93

³⁸ G. Mallikarjuna v. G. Thippamma, AIR 2012 (NOC) 267 (Kar).

³⁹ Ranjna Choudhary v. Raghubir Singh, AIR 2011 HP 27.

⁴⁰ (2007) 1 MLJ 698, A. Viswanathan v. G. Lakshmi @ Seetha.

⁴¹ Supra note at 23.

If the spouse comes late regularly without informing, that will amount to cruelty.⁴²

The Family Court has registered Deeplakshmi's complaint under Domestic Violence Act against her husband and In-laws as an act of cruelty.

➤ Forcing husband to leave his parents:

In *Narendra v. K.Meena*⁴³, the Supreme Court held that a wife cannot force her husband to get separated from his parents; if she does it will amount to cruelty.

a. Distinction between cruelty as defined by section 498A of the Indian Penal Code and cruelty as defined by the Hindu Marriage Act

Although the notion of cruelty is employed in many enactments to denote various meanings, no legislation in the Indian legal system has defined it. The essential concept of cruelty is defined in section 498A of the Indian Penal Code, and the judge is permitted to decide on the other implications that constitute cruelty. A very complete and deep investigation of the definition of the word cruelty was examined at length in the preceding article. In this sub-topic, the contrast between cruelty as defined by The Hindu Marriage Act and section 498A of the Indian Penal Code are discussed.

• **Consequences of the act which amounts to cruelty:**

Cruelty is a reason for divorce under section 13 of the Hindu Marriage Act of 1955, and an act that amounts to cruelty is a crime under section 498A of the Indian Penal Code.

• **Mens Rea:**

Section 13 of the Hindu Marriage Act of 1955 does not need the aim of being cruel. However, under section 498A of the Indian Penal Code, mens rea is a need for responsibility. To be considered a criminal offence under section 498A of the Indian penal code, the cruelty must be directed towards women.

⁴² Mrs. Deeplakshmi, 52 A.I.R.2010 Bombay 16, Sachin Zingade v. Sachin Ramshrao Zingade

⁴³ Supra note at 39.

- **Ambit of term cruelty:**

The definition of cruelty under section 498A of the Indian Penal Code is rather restrictive; it only applies to acts in which a woman is physically or psychologically compelled into making an illegal demand for valuables.

Section 13 of the Hindu Marriage Act expands the definition of cruelty to include all forms of mistreatment that a woman may encounter in her married relationship. The aggrieved must demonstrate the severity of the conduct that constitutes cruelty; the aggrieved might be either a man or a woman.

- **Effect of act amounting to cruelty:**

If cruelty is shown under section 13 of the Hindu Marriage Act, the marriage would be dissolved since cruelty is a reason for divorce. If cruelty is proven under section 498A of the Indian Penal Code, it is an offence punishable by three years in jail and a fine under the same section.

ii. Dissolution of Muslim Marriage act 1939:

The actions that constitute cruelty, which is one of the grounds for divorce, are explicitly defined in this statute. "That the husband treats her with cruelty, that is to say, a) assaults her or makes her life miserable by cruelty of conduct, even if such conduct does not amount to physical ill-treatment, or b) associates with women of evil repute or leads an infamous life, or c) attempts to force her to lead an immoral life, or d) disposes of her property or prevents her from exercising her legal rights over it, or e) obstructs her in the observance of her religious profession or practice, or f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of Quran."⁴⁴

iii. Indian Divorce Act 1869

⁴⁴ Section 2 (viii) Dissolution of Muslim Marriage act 1939
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Cruelty is recognised as a reason for divorce under this legislation. Cruelty as a cause for divorce is addressed in Section 10 (1) (x), which reads as follows:

"has treated the petitioner with such cruelty as to generate a reasonable concern in the petitioner's mind that living with the respondent would be hurtful or dangerous to the petitioner."⁴⁵The danger of living with one's spouse is emphasised in this section. This foundation may be applied to the Christian community.

iv. Parsi Marriage and Divorce Act 1936:

The legislation, which applies to Parsi married relationships, states that one of the spouses has treated the other to cruelty or his behaviour has been of such character that it would be improper for the court to order the application spouse to remain with the other. The court has the authority to issue divorce or judicial separation.⁴⁶The basis of cruelty was not initially recognised by the Act, but it was later added by modification in 1988.

v. Special Marriage Act 1954:

This Act applies to all Indians who have married under it and who may also seek divorce under it. This Act allows people of many religious backgrounds to marry. If two people of the same faith choose to marry, they can. Section 27 of the Act includes reasons for divorce, and cruelty by either spouse after the marriage is also one of the grounds for divorce.

vi. Protection of Women from Domestic Violence Act 2005:

Domestic Violence Protection for Women The Act of 2005 was enacted to protect women from domestic abuse. Domestic Violence is defined under Section 3 of this Act.⁴⁷Domestic violence comprises physical, sexual, verbal, emotional, and financial

⁴⁵ Indian Divorce Act 1869

⁴⁶ Section 32 Parsi Marriage and Divorce Act of 1936

⁴⁷ The following are the key components of the 2005 Protection of Women from Domestic Violence Act:

abuse, as defined by this Act. The Act protects all women in the family, including wives, mothers, sisters, widows, female live-in partners, and so on. This statute also covers cruelty in the demand for any valued securities.

Female relatives, sisters, mothers, or any females living under the same roof who are reliant on them.

- It covers harassment caused by dowry demands.
- It preserves women's right to residence via the use of "residence orders," regardless of the form of the family. As a result, no woman may be forced to leave her home against her choice.
- It gives the Court the power to issue a "protection order" that lists some conditions that the abuser must follow. The goal of such an order is to protect the victim from additional abuse and suffering.
- It requires the employment of "protection officers" and "service providers" to aid women in determining physical injuries, obtaining "shelter houses," and receiving legal support.
- It has the following consequences:
 - a) Breach of a protective order
 - b) The service provider's failure to fulfil their obligations.

This statute is primarily of a civil nature; however, it can be effective when combined with criminal law, as it includes the abuser's "omission" or "commission" of an act

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- It protects women residing in the home who are married, have a marital relationship without marrying, or are related by birth as part of a joint family. Any act, omission, action, or behaviour of the respondent shall be considered domestic abuse for the purposes of this Act if it—
 - (a) harms or injures or endangers the aggrieved person's health, safety, life, limb, or well-being, whether mental or physical, or threatens to do so, and includes physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse; or
 - (b) harms or injures or endangers the aggrieved person's health, safety
 - (b) harasses, damages, injures, or puts the aggrieved person in risk in order to compel her or any other person linked to her to comply with any illegal demand for dowry or other valuable security; or
 - (c) any behaviour listed in clauses (a) or (b) having the effect of intimidating the injured person or any person linked to her; or
 - (d) Injures or harms the aggrieved person in any other way, whether bodily or mental.

that constitutes "domestic violence," whereas section 498A of the Indian Penal Code is a criminal law that expresses only the commission of an act that results in cruelty.

6. Conclusion

To wrap up this chapter, the researcher has discussed the many aspects of section 498A of the Indian Penal Code, 1860. The researcher also looked at the idea of cruelty in regard to section 498-A of the Indian Penal Code in various Indian statutes and supplemental laws. To create a chronology of events, the researcher followed the path of women in India across time. The study found that throughout the Vedic era, which is commonly considered to be the golden age of human civilization, women were treated equally to their male counterparts. Women were educated, took part in politics, picked their own life partners, and had a great deal of autonomy. There was no such thing as dowry. During this time, there were no known cases of violence against women.

Many social infirmities emerged in Indian society with the arrival of the post-Vedic or mediaeval period. Many foreign invasions occurred during this time period. As a result of the invaders' onslaught, societal abuses against women such as child marriage, the sati system, and other such practises took root in the country's soil. Women's standing declined with time.

Women's conditions worsened much further during British administration. Various laws were passed to improve the position of women and to eliminate social problems, but they all failed and were just on paper.

The number of dowry fatalities increased after independence, notably in the 1980s. Women were subjected to harsh treatment by their husbands and in laws, prompting the legislature to pass legislation to address this social evil and make it a criminal offence. "Spouse or relative of husband of a woman subjecting her to cruelty," section 498A of the Indian Penal Code, 1860, which was adopted through

The Amendment Act of 1983 specifically addresses cruelty perpetrated against a woman by her husband and his family.

The components of section 498A of the Indian Penal Code, 1860, have been thoroughly reviewed by the researcher in order to determine the provision's meaning and application. After a thorough examination of the clause, it became obvious that cruelty is a subjective word that is dependent on a number of criteria that the courts must consider when interpreting it. A single act of cruelty may be prosecuted under numerous parts of the Indian Penal Code, including Sections 304B, 306, and 498A. As a result, the phrase cruelty is associated with mischief.

The researcher has also investigated other relevant legislations that have dealt with the idea of cruelty in order to give a thorough picture of the concept, however the context may change. To further clarify the definition of the phrase, the researcher looked into the laws that are related to the part. By explaining dowry death, section 304B of the Indian Penal Code, 1860, has implicitly dealt with the word cruelty. The provision specifies that dowry death occurs when a woman dies under unusual circumstances, such as fire or physical harm, during seven years of marriage and she is exposed to cruelty before her death.

Similarly, cruelty is addressed under section 306 of the Indian Penal Code, 1860. This clause punishes a guy who instigates a woman to attempt suicide as a result of harassment. According to Section 113A of the Indian Evidence Act, evidence must be shown to show that the harassment caused the dead lady to commit suicide. Further, section 113B of the Indian Evidence Act specifies that there must be evidence to show that the lady was harassed, that the harassment was in connection with a dowry demand, and that the harassment occurred shortly before death.

The researcher also looked at personal rules governing marriage and divorce, since these laws include cruelty as a reason for divorce. The definition of cruelty has been expanded by personal legislation. For example, under section 13(1) (i-a) of the Hindu Marriage Act of 1955, the desire to be cruel is not a required factor. The extent of cruelty under section 498A of the Indian Penal Code is also noted.

is quite restrictive, but the Hindu Marriage Act's clause includes all sorts of cruelty that a woman may endure in her married relationships.

The researcher's study also includes a short but important summary of international treaties that deal with the idea of cruelty directly or indirectly. In various declarations and treaties, the international arena has accepted the idea of cruelty as gender neutral, according to the study. Female gender specific types of harsh treatment are addressed in international texts such as the "Declaration on the Elimination of Violence Against Women 1993" and the "Convention on the Elimination of All Forms of Discrimination Against Women." The researcher saw that none of the treaties acknowledge any type of cruelty in regard to demands for material security, which is a big divergence from the Indian context. India is yet to ratify the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984," according to the study.

CHAPTER- III

APPLICATION OF SECTION 498A, IPC WITH

THE HELP OF JUDICIAL PRONOUNCEMENTS

1.Introduction

In today's culture, the prevalence of crime against women is on the rise. The Indian constitution guarantees equal rights to men and women. On the one hand, women participate and succeed in all sectors, but on the other hand, they face domestic abuse. Many laws have been passed to protect women from criminal activity. Lawmakers, law implementers, and law executors have all made significant contributions to improving women's standing and assisting them in fighting injustice.

The judiciary has also assisted by delivering justice via its significant decisions, which have taken into account the disadvantaged position of women. In most instances of cruelty, there is insufficient evidence to convict the spouse and his family of crimes against women. In a court of law, all the parties and their attorneys are aware of the truth; it is only the Judge who is unaware of the truth and is charged with delivering justice. The evidence presented to the judge is responsible, assists, or serves as the foundation for making decisions.

The number of cases filed under section 498A of the Indian Penal Code is increasing. The number of crimes perpetrated under cruelty by spouse or family increased from 49170 in 2001 to 106527 in 2012.

Many factors contribute to crimes against women, including depictions of opulent lifestyles in films, the infiltration of materialistic culture into society, a lack of moral education, and an overly stressed lifestyle. People want cheap money via demand at the time of marriage for the reasons stated above, and if they do not acquire it readily, they harass the ladies. Law enforcement is also insufficient; the police force is both

absolute and relative. There are fewer female police officers, and they are not educated to deal with sexual crime issues. Because there are fewer judges in relation to the population, the judicial system is exceedingly sluggish.⁴⁸

. Even after the Supreme Court's decision⁶⁶, no arrests have been made.⁴⁹

The patriarchal attitude of males in society is at the foundation of domestic violence. Women are expected to be controlled, and her parents are expected to pay for her upkeep in the form of dowry. Even when she is subjected to brutality and files a lawsuit against her in-laws, the goal is to reach a settlement and maintain the marriage. Without a question, matrimony is a sensitive relationship that must be handled with care. While attempts should be made to reunite the couple, there must equally be efforts made to provide justice to the worried lady. On the other side, many people believe that law measures pertaining to female cruelty are being misapplied. When a complaint is filed, all members of the family are usually jailed, giving the appearance that the provision is being abused⁵⁰. The flaw, according to a research report on Section 498-A of the Indian Penal Code⁵¹, is in the enforcement machinery, for which the legislative provision cannot be held accountable. Violence that happens inside the four walls of a home is very difficult to establish.

2. Examination of Supreme Court Decisions [1986-2019]

The Supreme Court has traditionally emphasised the importance of evidence in proving a person's guilt. In the case of *Amalendu Pal @ Jhantu v. State of West Bengal*⁵², the husband had an extramarital affair and asked his wife to allow him to continue.

⁴⁸ 10 Reasons Why India Has a Sexual Violence Problem, THE WASHINGTON POST DEMOCRACY DIES IN DARKNESS (May 16, 2019, 03:27 PM),

https://www.washingtonpost.com/news/worldviews/wp/2012/12/29/india-rape-victim-dies-sexual-violence-problem/?noredirect=on&utm_term=.4aae1a1d8a8a?nor

⁴⁹ *Sudha Goel v. State (Delhi Administration)*, 1986 AIR 250.

⁵⁰ *Arnesh Kumar v. State of Bihar*, 8 SCC 273, (2014).

⁵¹ A Report on Women's Protection from Cruelty: A Critical Study of Section 498-A of the Indian Penal Code, conducted by the Committee for Legal Aid to the Poor (CLAP), Cuttack, Odisha.

⁵² No. 2091 of 2009, Criminal Appeal No. 69.

She denied having a connection with the other ladies and marrying her. As a consequence, her husband began physically and emotionally tormenting her. Despite his refusal to marry, the husband obtained the woman with whom he had a connection as an accessory, showing a marital link, prompting the lawfully wedded wife to commit suicide. The accused was sentenced by the Calcutta high court for violating Indian Penal Code sections 306 and 498-A; as a result, the accused filed an appeal with the Supreme Court to seek justice. The Supreme Court found no proof that the husband encouraged the deceased to commit suicide, hence he was acquitted under section 306 of the Indian Penal Code, but convicted under section 498A since harassment and dowry demand were proven.

In *Kaliyaperumal and Anr. v. State of Tamil Nadu*,⁵³ a marriage was solemnised between Ashok Kumar and the deceased on the condition that gold and a certain amount be paid to the bridegroom at the time of the wedding, but the bride's parents could only pay a portion of the gold and promise to pay the rest in the near future. The departed parents were able to arrange for harassment and torture. She was bitten on the road and later died as a result of the torment. The hubby was away throughout this period. The Indian Penal Code's sections 304B and 498A were used to punish the father-in-law. Because the prosecution could not show a reasonable time gap between the cruelty and the woman's death, the court found the mother-in-law guilty under section 498A of the Indian Penal Code.

Varala Bharath Kumar and the complainant married in Hyderabad, and shortly thereafter, the complainant's spouse became ill and was brought to the hospital. He is not acting like a caring spouse, according to his wife, and goes away from her, claiming to be ill. After 20 days of marriage, the husband returned to his workplace in Australia. The woman went to her mother's house and filed a complaint against her husband on the charge of cruelty to animals. Only blaming the spouse for creating misery cannot warrant the application of section 498A of the Indian Penal Code⁵⁴

⁵³ Appeal 1358 (crl.) of 2002

⁵⁴ *Varala Bharath Kumar and Others v. Telangana State and Others* SC 4434 AIR 2017

where there is no proof of dowry demand and harassment by the husband and his family.

In one instance, the deceased ingested acid and was brought to the hospital, where she gave a statement to the magistrate before dying. A deathbed statement, if recorded in the presence of the Magistrate and the Court is convinced that the declaration is factual, may be used to condemn the accused, and so the appeal was rejected⁵⁵. The husband and mother-in-law set fire to Dhanuben and her son Ajay, who were sleeping in the same bed. The Magistrate's statement was regarded as a dying declaration, whereas the earlier statement was classified as F.I.R. 1. The appellant argued that the two statements should be dismissed since they were recorded without the presence of the doctor. The Supreme Court overruled the contention, dismissing Koli Chunilal Savji's appeal and convicting him under sections 34, 302, and 498A of the Indian Penal Code on the basis of two dying declarations made by the deceased at two different times to different people without the presence of a doctor because the Court found consistency between the two⁵⁶. There can be no conviction unless the authenticity of the deathbed statement is proven beyond a reasonable doubt.

There was a dispute about the statement made in the FIR and the deathbed declaration in a case of dowry demand. So it has to be shown whether the dead was set on fire or put herself on fire. The accused demanded dowry and was abusing her, according to the FIR, which was submitted by the deceased's uncle. In his deathbed statement, the dead indicated that dowry was demanded and that it had not been met.

gratification Her husband set her on fire The Court ruled that the dead's contradicting statement in the FIR and dying declaration could not be used as a basis for conviction since the deceased died at midnight and the statement was recorded in the morning⁵⁷. Cruelty and harassment were not proven beyond a reasonable doubt in *State of Maharashtra v. Hemant Kawadu Chariwal and Ors*⁵⁸. Letters sent by the dead to her

⁵⁵ Varikuppall Srinivas v. Andhra Pradesh State. SC 1487, AIR 2009.

⁵⁶ . Koli Chunilal Savji and Others v. Gujarat State, AIR 1999 SC 3695.

⁵⁷ Guvva Satyanarayana v. State of Andhra Pradesh, AIR 2009 SC 101.

⁵⁸ SC 287, 75 AIR 2016.

parents were used as proof of abuse, however the deceased's handwriting was not examined, thus it could not be used as evidence of cruelty. The deathbed pronouncement was made at 5:45 p.m. on June 20, 2004, and the event happened at 8 a.m. on the same day. It is obvious from the preceding instance that the investigative apparatus failed to bring the evidence to the attention of the Court.

The dead was dissatisfied with her in-laws' terrible economic circumstances, her illiterate spouse, and the lack of opportunities for further study. The deceased's letter to her parents expressed her displeasure without mentioning any harassment or dowry demand. The dead perished as a consequence of burns caused by an unintentional fire. When the deathbed statement is exculpatory in character, it is also untrustworthy evidence⁵⁹. Summayya, the wife of Nisar Ramzan Sayyed⁷⁷, was tortured in the case of *State of Maharashtra v. Nisar Ramzan Sayyed*⁶⁰. The torturers continued for a long time before pouring kerosene on her and their kid and setting them on fire on October 29, 2010. She died shortly after giving birth to a lifeless baby after her son died. There were three written declarations and three spoken declarations. The accused was convicted by the Trial Court, but the High Court acquitted them owing to a lack of eye witnesses. The Supreme Court upholds the Trial Court's decision, but changes the sentence from death to life imprisonment. The Court took death into consideration as a reliable piece of evidence to convict the Respondent. There was a cumulative relationship between all of the incidents, and despite the lack of direct evidence, the court was able to thoroughly demonstrate the Respondent's culpability. The High Court convicted him under sections 302 and 498A of the Indian Penal Code after the accused was acquitted by the Session Court. The deceased in this instance had been married for 20 years and had two boys, ages 16 and 15. The husband harassed her for dowry; the husband was supported by his brother, sister-in-law, and mother-in-law; one day while she was sleeping, all four entered her room and the two men beat her; later, sister-in-law and mother-in-law caught her, husband poured kerosene on her, and brother-in-law lit the match stick and set her on fire. The Supreme Court ruled

⁵⁹ *Rajbabu and Others v. Madhya Pradesh State* AIR 2008 SC 3212

⁶⁰ SC 2363, 77 AIR 2017.

that a deathbed statement based on conviction may be given freely, in a healthy state of mind, and in the presence of a doctor who is the best person to know the individual's mental condition.⁶¹

The woman was previously married and had children when she married the accused after her husband died. The second husband, Shakson, travelled to Saudi Arabia to work and send money. There was a misunderstanding about the wife's character, as a result of which the husband began to ignore her and cease giving money. When he returned home, his demeanour remained indifferent, and she was ejected from her brother-in-home; law's this caused emotional and physical distress, prompting her to file a cruelty complaint. Section 498A of the Indian Penal Code would only apply in circumstances when a woman is subjected to abuse by her husband or a relative⁶². When deciding a case, it is critical to analyse the evidence on the record. Kiran Bala, who was married to Sanjeev Kumar and gave birth to a male kid, was harassed for the dowry demand in Sanjiv Kumar v. State of Punjab⁶³. Her in-laws and relatives used to make fun of her for failing to meet her dowry demand She was not transferred to her parental home with her brother until she paid a demand of Rs. 50000 for her sister-in-marriage. law's Following her brother's arrival, word emerged that Kiran Bala had been burned to death. Because the guilt was shown beyond a reasonable doubt, the trial court accepted the evidence and sentenced the defendant under section 304b of the Indian Penal Code. Sanjeev Kumar's sentence was reduced from life to 14 years of harsh imprisonment by the High Court.

The wife's illicit relationship caused her to drink poison, which the Panchayat informed her parents about on multiple times. Because there was no proof of harassment, the Court did not apply section 498A of the Indian Penal Code.

The drowning of the dead cannot be classified as an accident; rather, it is a case of suicide, as the honourable Court correctly stated. Though an unlawful connection does not necessarily equate to cruelty, it is undeniably her mistreatment of the dead

⁶¹ Ramesh and Others v. Haryana State AIR 2016 SC 5554

⁶² Shakson Belhissor v. Kerala State and Others, 2009 (2) ALD(Cri) 497.

⁶³ 16 SCC 487, 80 (2009)

that drove her to commit suicide. The Court, on the other hand, saw the husband's illegal connection with another woman as proof of abuse and harassment that drove the dead to commit suicide⁶⁴.

The High Court denied the appellant's motion to quash the prosecution under Indian Penal Code section 498A. The matter went to the Supreme Court, where it was discovered that the respondent never visited her in-laws, whom she had filed a complaint against, since they were too far away to trouble her. When it comes to marital matters, courts are very cautious, especially when evaluating evidence. The court⁶⁵ has treated a case of harassment by husband's relatives who reside in a faraway place with remarkable care.

Kavita was tortured by her husband and mother-in-law over a dowry demand, and she died after consuming a deadly chemical. The deceased's father recognised her corpse and filed a case under Indian Penal Code sections 304B and 498A. The husband's brother was acquitted, but the husband and his mother were found guilty of instigating cruelty for dowry demand. The appeal was denied by the High Court, although the sentence was reduced from life imprisonment to ten years. The Supreme Court ruled that a woman's death is assumed to be dowry death under section 304B of the Indian Penal Code if she is harassed shortly before her death for dowry demand and dies under unusual circumstances within seven years of her marriage. When a person meets the legal conditions of both sections 498A and 304B of the Indian Penal Code, he or she may be punished under both.

The lady in this instance was dissatisfied since her husband and father failed to medicate her during her second pregnancy period, resulting in her consuming poison. The accused was sentenced to death under section 498A of the Indian Penal Code, but acquitted under section 304B. There can be no punishment if the legal requirement of section 304B is not met, but because the woman was harassed for her

⁶⁴ 1 SCC(Cri) 782 in Laxman Ram Mane v. State of Maharashtra (2011).

⁶⁵ AIR 2010 SC 3363, Preeti Gupta and Others v. State of Jharkhand and Others.

dowry demand and committed suicide, the accused is sentenced under section 498A of the Indian Penal Code⁶⁶ rather than 304B.

The Trial Court dismissed the dying declaration as insufficient evidence to convict the defendants and acquitted them. The High Court agreed with the Trial Court but held that section 304B of the Indian Penal Code was satisfied, so the mother-in-law and sister-in-law were sentenced to seven years in prison and two years in prison, respectively, under section 498A of the Indian Penal Code. When a person is sentenced under section 304B of the Indian Penal Code, the essential three elements must be present are met:- death must be unnatural, occur within seven years of marriage, and harassment and dowry demand must occur shortly before her death. The final factor, dowry demand, is missing in this instance, hence the offender is acquitted under section 304B of the Indian Penal Code⁶⁷.

The defendants were found guilty under section 304B of the Indian Penal Code and sentenced to seven years in jail. The High Court dismissed the claim under section 304B of the Indian Penal Code and prosecuted them under section 498A of the Indian Penal Code, which they had not been charged for. Despite not being prosecuted, the accused was found guilty under section 498A of the Indian Penal Code. The accused was charged with violating section 304B of the Indian Penal Code, but was found not guilty. Because the dead was treated with cruelty⁶⁸, the Court ruled that an accused might be guilty of a crime for which he was not formally charged.

Renu Bala married Anup Singh, but she was unhappy because of their constant dowry demands, which she confessed to her parents during a visit. Her mother went to visit her after learning of her hospitalisation, but she was not there. Her mother reported her to the police since she was found dead on her husband's porch. She died at fourteen months pregnant after consuming aluminium phosphide, which caused circulatory system collapse. The Trial Court found them guilty under section 498A 306 of the Indian Penal Code based on two letters and six witnesses. The conviction

⁶⁶ Pyare Lal v. Haryana State, AIR 1999 SC 1563.

⁶⁷ State of Punjab v. Shindo Alias Sawinder Kaur and Others (2011) 11 SCC 517

⁶⁸ Dinesh Seth v. State of NCT of Delhi 2009 (2) ALT(Cri) 235

under section 306 of the Indian Penal Code was overturned, but the crime was upheld under other sections. Sections 304B and 498A of the Indian Penal Code⁶⁹ are not mutually exclusive; an accused convicted under Section 304B is not acquitted under Section 498A.

Section 498A of the Indian Penal Code allows for conviction under Section 304B.

In *Rajendran and Anr. v. State Asstt. Commnr. Of Police Law and Order*⁷⁰, the evidence established that the lady had been tortured, but no dowry offence had been shown, hence the accused was acquitted under section 304B of the Indian Penal Code but sentenced under section 498A. Although there was no violation involving dowry in the aforesaid instance, the accused was penalised under section 498A and acquitted under section 304B of the Indian Penal Code. If there is no mention of a demand in section 498A of the Indian Penal Code, harassment to compel a woman to satisfy an illegal demand is not relevant.

The Supreme Court of India concluded in *Shivanand Mallapa Koti v. State of Karnataka*⁷¹ that a conviction for an offence under section 498A of the Indian Penal Code cannot be upheld in the absence of an illegal demand for property or valuable things. There was no mention of a dowry demand in the deceased's letters to her parents. The appeal was granted.

There was no proof that the dead was exposed to cruelty; she was restless and weak after her tubectomy and could not work; there was a fair interval between marriage and the incidence of death; and the section 498A element was not proven beyond a reasonable doubt. When there is no proof of dowry demand and no indication of suicide or harm, Section 498A does not apply⁷².

Section 498A of the Indian Penal Code applies to blood and marital relationships. Only the husband and his family may be charged of torturing the woman. The harassment of the lady must be done by the husband and his family, since section

⁶⁹ *Balwant Singh and Others v. Himachal Pradesh State* 2009 ((1)) ALT(Cri) 103.

⁷⁰ SC 855, 88 AIR 2009.

⁷¹ SC 2314, 89 AIR 2007.

⁷² AIR 2009 SC 1928, *Gopal v. State of Rajasthan*.

498A of the Indian Penal Code applies to anyone related to the woman's husband by blood or marriage⁷³.

Cruelty in this section must be of such a nature that it causes the woman to commit suicide, and the prosecution must prove it⁷⁴, that is, the consequences of cruelty must be established in order for section 498A of the Indian Penal Code to be applied.

When the neighbours called for a fire extinguisher, the deceased and her infant were discovered dead. The story was told in two ways: one by the dead father and the other by her husband. The deceased's father said that his son-in-law had an affair with a girl, that he questioned his wife's integrity, and that the kid was not his son. On the other side, the deceased's husband said that his father-in-law wanted his daughter to remain with him and assist him owing to financial problems. He was fed up with his father-in-law's behavior and filed for divorce. The wife pleaded with him not to divorce him, so he returned to his house and they were happily married. She committed herself as a result of her anger with her father's demands. When a rule or section is part of a larger scheme, it should not be seen or interpreted separately⁷⁵.

Evidence is crucial in determining whether or not the accused is guilty. However, the proof must be conclusive. If only circumstantial evidence exists, it must be consistent with the facts⁷⁶.

The court in this instance created a new kind of mental cruelty against women, known as mental harassment. Cruelty also includes making false accusations against a woman with the goal of humiliating and torturing her.⁷⁷

Each situation is unique. The definition of cruelty under section 498A of the Indian Penal Code⁹⁶ evolves through time; what is cruel one day may not be harsh the next⁷⁸. Similarly, the definition of cruelty varies from civilization to society. People from various socioeconomic classes interpret the term differently.

⁷³ 2010 (9) SCALE 395 *Sunita Jha v. State of Jharkhand and Anr.*

⁷⁴ AIR 2008 SC 2131 *Noorjahan v. State Rep. by D.S.P.*

⁷⁵ AIR 2010 SC 2914, *G. Parshwanath v. State of Karnataka.*

⁷⁶ *B. Venkat Swamy v. Vijaya Nehru and Others* (SCC 260)

⁷⁷ *Mukund v. M. Chitnis* M. Chitnis, BOMLR 157, 1991

⁷⁸ *Supra* note number 23.

It is also noted that the Judges presiding over the case may be from various generations, and so each case is judged on the circumstances of the case, the evidence given by the parties, and the level of torture. The lone piece of proof was the deceased's suicide letter. The husband and his mother were found guilty by the Trial Court under section 306 of the Indian Penal Code. The High Court overturned the verdict and found the accused guilty of violating Indian Penal Code section 498A rather than section 306. They were sentenced to jail; however, the appellant disputed the verdict of the High Court, claiming that it would harm her image as a government teacher. The suicide letter included no evidence of cruelty that might be considered a severe charge against the accused. As a result, the Court acquitted the appellant since his guilt could not be shown. Torture should be of a severe kind, and this must be demonstrated⁷⁹.

The Judges have given the idea of cruelty new dimensions. They attempted to assess the circumstances of the cases in light of the definition of cruelty under section 498A of the Indian Penal Code. As a result, they have given the notion of cruelty new connotations. Is the decision always just, fair, and reasonable? Do judges make decisions with a biased mindset, resulting in erroneous conclusions? If judges have steadily developed the notion, we must evaluate a number of factors, including:

- 1) Judges are only aware of the facts that are presented before them; their decisions are based on the same.
- 2) The Judge's social background, upbringing, family history, social standing, and other factors all impact how they see cases.
- 3) Judges are human beings who make mistakes. At the same time, they have attempted to provide justice in the face of the social system's complications.

The judiciary has often attempted to broaden the definition of cruelty under section 498A of the Indian Penal Code. In order to keep up with the necessities of society, the Hon'ble Supreme Court's judicial declarations dealing with the concept of cruelty have shown significant expansion and modification throughout time.

⁷⁹ AIR 2000 SC 3559, Smt. Raj Rani v. State (Delhi Administration).
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Within a few years of marriage, an educated couple found themselves in strife. The wife requested a divorce based on cruelty. The wife's argument was dismissed by the Trial Court because there was no proof of dowry demand. The High Court defended its decision by stating that spending money by his wealthy wife is not illegal. Matrimonial relationships have changed dramatically as society has evolved; a man cannot take his wife for granted. A woman is no longer a devotee of her husband, but rather receives equal regard and position. *Shobha Rani v. Madhukar Reddi* was decided by the Supreme Court in 1988.⁸⁰ found that section 498A of the Indian Penal Code added a new dimension to the idea of cruelty, and that a demand for dowry, which would be considered cruelty under section 498A of the Indian Penal Code, is also a legitimate reason for divorce under the Hindu Marriage Act, 1955.

The accused was found guilty under sections 304B and 498A of the Indian Penal Code by the Trial Court. The High Court found him not guilty under section 498A of the Indian Penal Code but guilty under section 304B, holding that the two provisions are mutually exclusive and that if cruelty is proven under section 498A, only section 304B may be enforced. However, the failure to apply section 498A indicates that the accused acted cruelly, and they may be acquitted of the crime under both sections. In *Shanti and Ors. v. State of Haryana*⁸¹, the Supreme Court concluded that cruelty defined by Section 498A of the Indian Penal Code may be used to demonstrate cruelty under Section 304B of the Indian Penal Code since the terms cruelty and harassment are not defined in the statute. The elements of sections 498A and 304 B of the Indian Penal Code are mutually exclusive, and the sentence for Section 498A may be deduced to be the same as the punishment for Dowry Death.

The deceased got married when he was 12 years old, and his father provided enough money and gold for the wedding. The dead stayed with her parents until she reached adolescence. She moved to live with her in-laws, but she complained to her parents that her in-laws were seeking her father's land property. The husband and in-laws went to great lengths to capture the harvest on the dead father's land property, and

⁸⁰ Supra note number 23.

⁸¹ *Shanti and Others v. Haryana State*, AIR 1991 SC 1226.

they even beat her father on the occasion. As a result, civil and criminal processes were pending between the two families. When the husband and mother-in-law returned after attending an overnight wedding ceremony of their relatives on September 7th, they discovered the deceased had died from pesticide poisoning. The body of the deceased had nail marks and edoema. According to the most recent autopsy report, there was exterior damage and the death was caused by ingestion of hazardous substance. The deceased's senior lawyer contended that the absence of a family member at the time of death speaks volumes about the defendant's culpability accused. The Supreme Court of India held in 1989 that circumstantial evidence is of little value for convictions under section 498A of the Indian Penal Code since guilt must be shown beyond a reasonable doubt, preferably by direct proof.⁸²

Following the instances from 1987 to 1990, it is respectfully urged that, due to its immaturity, the Hon'ble Supreme Court approached the idea of cruelty under section 498A of the Indian Penal Code with caution.

The Supreme Court looked at sections 304B and 498A of the IPC and determined that they are not mutually exclusive. In showing guilt under section 498A of the Indian Penal Code, the Court again emphasised the value of direct proof above circumstantial evidence.

In a case of dowry death, the Trial Court found the husband, his father, and his mother guilty under sections 498A and 304B of the Indian Penal Code. Before marriage, the dead was a relative of the accused, and the families knew each other. The deceased's family pledged to pay Rs.10,000 as dowry at the time of the marriage but could only afford Rs.8000; the remainder was promised to be paid later. The deceased's father-in-law and mother-in-law used to harass him for the remaining cash, and the spouse would join them when he was on leave from military service. The autopsy revealed that the death was murderous. It was difficult to establish that the death occurred under unusual circumstances, resulting in an acquittal under 304B and a conviction under 498A of the Indian Penal Code. The Supreme Court went so far as to state that

⁸² AIR 1990 SC 79, Padala Veera Reddy v. State of Andhra Pradesh and Others.
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an acquittal under section 304B of the Indian Penal Code does not automatically result in an acquittal under section 498A; the charge would still remain even if the guilt under section 304B is admitted.⁸³

While opening up a new facet to the concept of cruelty under section 498A of the Indian Penal Code, the Supreme Court held that questioning the chastity of the wife on the wedding night amounted to defamation, which would then be considered cruelty under section 498A.⁸⁴ In this case, the wife files a complaint against her husband for cruelty to her. The husband was found guilty under section 498A of the Indian Penal Code and sentenced to six months in jail and a fine of Rs.3000 by the Trial Court. The accused went to Session Court to dispute the Trial Court's decision. The Session Court upheld the illegal conduct but reduced the penalty to a fine of Rs. 6000, with Rs. 3000 going to the court and Rs. 3000 going to the wife. The wife, irritated by the Session Court's decision, petitioned the Supreme Court to uphold the Trial Court's decision. Mrs Chitnis is adamantly opposed to the Session Court interfering and modifying the sentence, claiming that it would be a farce of justice and have no deterrent effect on the public if the guilty is not punished according to the law. She emphasised this thesis by using many views proposed by jurisprudence philosophers like as Roscoe Pound, Friedman, Jack Gibbs, and others. The Court decided that the fine would be increased to Rs. 30,000 and that the wife would be sentenced to six months in jail.

According to the Supreme Court, activities that cause a woman's natural state of mind to be destroyed and drive her to commit suicide are considered cruelty under section 498A of the Indian Penal Code.⁸⁵

In *State of Himachal Pradesh v. Nikku Ram and Ors.*⁸⁶, the Supreme Court said that on evidence of cruelty under section 498A of the Indian Penal Code, the Court would

⁸³ Akula Ravinder and Others v. Andhra Pradesh State AIR 1991 SC 1142

⁸⁴ AIR 1992 SC 1804 Mukund Martand Chitnis v. Madhuri Mukund Chitnis and Ors.

⁸⁵ AIR 1994 SC 1418 State of West Bengal v. Orilal Jaiswal and Others

⁸⁶ Supra note number 32

award damages. According to section 113-A of the Indian Evidence Act, the offenders may conclude, based on the facts of the case, that the suicide was aided by them.

The Supreme Court held that while prosecuting a case under section 498A of the Indian Penal Code, a Government counsel must use extreme caution because of the nature of such cases.⁸⁷

In *Balram Prasad Agrawal v. State of Bihar and Ors*⁸⁸, the Supreme Court used its extraordinary powers under Article 142 of the Indian Constitution to reframe a charge under section 498A of the Indian Penal Code at the appeal stage, after the Trial Court had done away with the charge that was originally framed by the police and had framed charges under section 304, which was a graver offence, to avoid unnecessary protraction of the trial.

The Supreme Court has also taken harsh measures against the spouse who attempted to hide behind a deathbed statement that did not inspire faith in the Court. *Surinder Kumar and Ors. v. Condition of Haryana*⁸⁹, the court declined to accept the evidence of a dying statement on the grounds that it was impossible for the lady on her deathbed to have delivered such a dictation, and the doctor did not indicate her mental state. Given that her husband was there with the doctor, his presence is likely to have impacted her testimony.

In *Sreerama Murthy v. State of Andhra Pradesh*⁹⁰, the Court decided that a coherent and reasoned deathbed statement is of great significance to the Court and may only be dismissed for compelling grounds.

The Supreme Court further said that numerous copies of a dying statement supporting the same event cannot be questioned just because one version was not recorded in the hand of the Special Executive Magistrate, who attested that this was due to his difficulty to write due to shaky hand.⁹¹

⁸⁷ 1995 (5) SCALE 328, *Deepti v. Akhil Rai and Ors.*

⁸⁸ AIR 1997 SC 1830, *Balram Prasad Agrawal v. State of Bihar and Others.*

⁸⁹ SC 2037 107 AIR 1992

⁹⁰ SC 3040 108 AIR 1998

⁹¹ *Shripatrao v. Maharashtra State*, 1999 (5) SCALE 206

A proper medical certificate appended to a dying declaration must clearly state that the victim was in a proper and fit state of mind to make the statement; a certificate simply stating that the victim was conscious at the time of making the declaration is of little value in establishing the prosecution's case.⁹²

Even though the respondent made a confession in front of other people, the Apex Court in *State of Haryana v. Rajinder Singh*⁹³ did not interfere with the High Court's judgement of acquittal. The Court attributed this non-interference to the doctor's medical conclusion that the death might have been caused by the dead falling into the well, as well as the deceased's brother's assertion that there was no animosity between the families.

*Pyare Lal v. State of Haryana*⁹⁴ found the appellant guilty of violating section 498A of the Indian Penal Code and acquitted him of violating section 304B of the Indian Penal Code, holding that the brutality perpetrated on the dead had nothing to do with a dowry demand. When Usha Rani and Pyare Lal married and moved to Panipat, the problem began when her father moved to the same location and purchased a business and two residences. The deceased's spouse sought a home and a business, which her father refused; as a result, he demanded Rs. 10,000, of which Rs. 5000 was paid. The husband's face changed.

The dead, as well as a month-old kid, were thrown out of the home. She moved to her father's house and began to live there. A solution was reached, and she returned to her husband. After a few months of persecution, his father and mother decided that their son and daughter-in-law should live apart. As a result, they moved into a leased home. She was unhappy with him and requested her father to let her remain with him, to which her father replied that she may return home after the birth of the second child. She killed herself by ingesting pesticide. The Trial Court found him guilty of violating Indian Penal Code sections 498A and 304B. Because the death was viewed as the result of frustration in trying to deliver a second child in such circumstances, rather

⁹² AIR 1999 SC 3455, *Parambika Rosamma and Others v. State of Andhra Pradesh*.

⁹³ 1996 SC 2978

⁹⁴ *Supra* note at 84

than a dowry demand, the accused was free of punishment under section 304B of the Indian Penal Code, and the punishment under section 498A of the Indian Penal Code was upheld and the accused was sentenced to three and a half years in prison.

The Supreme Court has emphasised the need of direct and tangible evidence imputing cruelty to show guilt under section 498A of the Indian Penal Code; otherwise, the accused would be free and released from the allegation.

During a ten-year period (1991-2000), the Hon'ble Supreme Court recognised the strong and irrefutable link between sections 498A and 304B of the Indian Penal Code, and hence made detailed remarks on the importance and legitimacy of deathbed statements while dealing with cases under those sections. The Supreme Court also recognised the hazardous nature of Indian Penal Code section 498A, which might be used to entrap unwary relatives of the husband, and increased the proof requirements for proving guilt under the provision.

Meka Ramaswamy v Dasari Mohan and Others, AIR 1998 SC 774

The accused was found guilty on the evidence of dowry demand and the deceased's untimely death, and she was immediately cremated to erase the evidence. Ram Pukar filed an appeal, but Mungeshwar Prasad and his wife appealed to the High Court against the Trial Court's judgement. The Trial Court's decision was upheld by the High Court. While acquitting the appellants of charges under sections 304B and 498A of the Indian Penal Code, the Supreme Court concluded that in the lack of tangible evidence or testimony, guilt cannot be shown beyond a reasonable doubt, which is a prerequisite for conviction under both provisions.⁹⁵

Due to the rising rate of dowry, even the educated elite requested deterrent measures to reduce it. In an unusual turn of events, the Supreme Court maintained the husband's conviction based on circumstantial evidence, stating that the evidence was solid and indisputable and pointed plainly to the husband's guilt.⁹⁶ The fact that she was last seen by her aunt with her husband who had come to remove her, that he had the

⁹⁵ *Mungeshwar Prasad Chaurasia and Others v. State of Bihar*, AIR 2002 SC 2531

⁹⁶ *Vikas v. Rajasthan State*, AIR 2002 SC 2830

deceased's decorations when her husband had come to take her, and that he denied ever seeing her for a long time all pointed to her being guilty. The husband was charged under section 302 of the Indian Penal Code, while his parents were charged under section 498A.

The Trial and High Courts convicted the defendants under section 498A of the Indian Penal Code based on letters sent by the deceased to her cousin stating that she was being harassed by her husband. In *Girdhar Shankar Tawade v. State of Maharashtra*⁹⁷, the Supreme Court ruled that there must be specific and overt acts of corruption to trigger the punitive penalty under section 498A of the Indian Penal Code.

Explanation (b): harassment to pay a dowry demand; Explanation (c): any action that would ruin a woman's natural state of mind, causing her to commit suicide or inflict harm to her life or limb (a). Liability would not be imposed on the accused based on mere faultworthy behaviour.

The accused were given the benefit of the doubt and acquitted of the charges brought against them under sections 304B, 306, and 498A of the Indian Penal Code. The High Court found him not guilty under section 304B of the Indian Penal Code but guilty under sections 306 and 498A. There was no concrete proof that the deceased died as a result of the burns. The dying statement and proof presented by relatives who confirmed the act of dowry demand. The Supreme Court dismissed the Trial Court's observation and upheld the High Court's decision. Recognizing the fluid and changing definition of cruelty, the Supreme Court said that there is no hard and fast rule for determining what constitutes cruelty since it is reliant on a variety of other elements and situations. As a result, each case in which cruelty is accused must be dealt with by a thorough review of the facts and circumstances.

In *Hira Lal and Ors. v. State (Govt. of NCT) Delhi*, the Supreme Court highlighted the distinction between sections 304B and 498A of the Indian Penal Code, holding that past acts of cruelty fall within the ambit of the latter section, as opposed to the former, which mandates that the acts of cruelty must be in the immediate past. The

⁹⁷ SC 2078 AIR 2002

punishment was lowered from 10 to 3 years by the High Court, but the maximum term under the legislation is 7 years, therefore the conviction was upheld.

In *Sardar Khan v. State of Karnataka*, the Supreme Court said that certain elements must be followed in order to prove the prosecution's case on the basis of indirect or circumstantial evidence, namely:

1. Concrete proof of facts establishing culpability or blame is required.
2. The facts described above should plainly and precisely point to the defendant's guilt.
3. Taken together, the evidence should create a sequence that closes all loopholes and establishes that the person accused committed the offence.

In *Raghumunda Satya Narayana v. State of A.P*, the Supreme Court reduced the husband's sentence under section 498A of the Indian Penal Code to six months in light of the compromise reached between the wife and husband and an affidavit filed by the wife to that effect.

The Supreme Court in *Raj Rani v. State (Delhi Admin)*⁹⁸ emphasised the necessity of taking several depositions to confirm data proving guilt, which in this instance included a suicide note. The complaint was first filed under section 306 of the Indian Penal Code, but was later moved to sections 306 and 498A. The dead was tormented for her dowry demand, and as a result, she committed herself. After a post-mortem examination, the doctor discovered burn injuries and a kerosene odour on her corpse. The Trial Court acquitted the accused under section 306 of the Indian Penal Code due to a lack of evidence, but convicted him under section 498A of the Indian Penal Code due to evidence. The High Court decided that the evidence under section 306 of the Indian Penal Code was not available.

The Trial Court proposed a code. The witness for demonstrating the crime of cruelty was likewise deemed insufficient and untrustworthy by the Supreme Court.

The police then modified the First Information Report from section 302 of the Indian Penal Code to sections 306 and 498A of the Indian Penal Code. The accused was

⁹⁸ SC 3559 121 AIR 2000

convicted under section 498A of the Indian Penal Code since there was no solid evidence to show guilt under section 306, but the High Court freed him because all of the witnesses were from the dead side and hence untrustworthy. The state of Haryana challenged the High Court's decision to the Supreme Court. The Supreme Court emphasised that even depositions used to confirm elements of cruelty should be free of flaws and should be complete and sound.⁹⁹

The Apex Court held in *Balwant Singh v Pratap Singh and Ors*¹⁰⁰ that if 'cruelty' was proven under section 498A of the Indian Penal Code to fulfil unlawful dowry demands and the victim died, the perpetrator might be punished under section 304B of the Indian Penal Code.

The accused claimed that his wife was mad and that she was receiving therapy to help her recover. He was sleeping outside the home when he heard his wife and kids screaming for help. The woman hurried outside the flaming home and inspected her clothing. Both of them were taken to the hospital by their spouse. The accused was condemned to life in prison by the Trial Court based on his deathbed declaration and the witness's account. The penalty imposed by the Trial Court was upheld by the High Court.

The deathbed statement could not be shown to be trustworthy beyond a reasonable doubt, hence the Supreme Court dismissed it in *Uka Ram v. State of Rajasthan*¹⁰¹

The Supreme Court said that if a person is convicted under section 498A based only on the victim's deathbed declaration, the statement must be devoid of all flaws and leave no room for dispute, failing which the accused may be acquitted. The deceased's lunacy was shown by her father's testimony, in which he said that her last spouse had left her for the same reason.

In *Sushil Kumar Sharma v. Union of India and Ors.*¹⁰², the Supreme Court warned lower adjudicating bodies and other investigative agencies about the danger of

⁹⁹ JT 2000 (9) SC 163: *State of Haryana v. Jasvinder Singh and Ors.*

¹⁰⁰ 9 SCC 352, 123 (2000)

¹⁰¹ SC 1814 AIR 2001

¹⁰² SC 3100 125 AIR 2005

fraudulent or manufactured charges under section 498A of the Indian Penal Code. When dealing with indirect evidence, the Court also cautioned the subordinate courts. The Court went on to explain the difference between section 306 and section 498A of the Indian Penal Code, stating that cruelty under the former section encourages women to commit suicide, whereas harassment and demand for valuable items against her will may drive her to commit suicide under the latter section.

*Ramesh Kumar v. State of Chhattisgarh*¹⁰³ was convicted under sections 306 and 498A of the Indian Penal Code and sentenced to seven and two years in prison, respectively. The accused's father, mother, and brother were all released. The accused's conviction was based on the testimony of her family, a suicide note in a journal, and a deathbed statement. The penalty was upheld by the High Court. The Supreme Court was unable to uncover any evidence to support the abetment and hence overturned the sentence, which was imposed under section 498A of the Indian Penal Code. The Supreme Court noted that the presumption under section 113A of the Evidence Act did not apply to all acts of cruelty under section 498A of the Indian Penal Code.

In *Gananath Pattnaik*, the husband had extramarital affairs with his brother's wife. *v. State of Orissa*¹⁰⁴, a case in which his conduct with his wife was not as friendly as he claimed. Although the Trial Court could not find him guilty under section 304B of the Indian Penal Code, his illicit interactions with his sister-in-law were harsh, and the deceased committed suicide as a result. The Trial Court's sentence was upheld by the High Court. The Supreme Court ruled that since there is evidence of cruelty toward the dead, the accused is acquitted owing to the benefit of the doubt. The Supreme Court made an intriguing insight when they realised that the definition of cruelty varies from person to person depending on their histories, and that what may be considered cruelty in one instance or to one individual may not be cruelty to another.

¹⁰³ SC 3837 AIR 2001

¹⁰⁴ 2002 (1) ALT(Cri)

While defining "cruelty" in *Girdhar Shankar Tawade v. State of Maharashtra*¹⁰⁵, the Court noted that torture must be a continuous act.

The Trial Court required the legitimacy of Reema and Anupam's marriage, which was not provided; the Court decided that 498A was not relevant in such a case of invalid marriage. The plea for permission to appeal was denied by the High Court without explanation. While applying the mischief rule, the Supreme Court held in *Reema Aggarwal v. Anupam and Ors.*¹⁰⁶ that a person contracting a second marriage could be charged under section 498A of the Indian Penal Code for harassing or subjecting the woman in the second marriage to cruelty, and that he could not claim protection for a wrong that he had committed, namely contracting a second marriage while the first marriage was still alive.

The accused's sentence of 10 years in jail and a fine increase from Rs. 2,000 to Rs. 2,00,000 was affirmed by the Trial Court and the High Court, respectively. Within three years of marriage, the dead died of an unnatural death after swallowing aluminium phosphate. Even after paying the stipulated sum at the time of marriage, there remained a constant demand for dowry. The Supreme Court said that the accused's return of Rs. 2,00,000 is invalid since the demand for money is illegitimate. As a result, the Supreme Court set aside the payment of the sum and upheld the ten-year term. While emphasising that sections 304B and 498A of the Indian Penal Code do not exist in two wholly different worlds, the Supreme Court decided that acquittal under the former does not imply acquittal under the latter.¹⁰⁷

The lady was viciously wounded by her husband in their bed chamber in *Rajkumar v. State of Madhya Pradesh*¹⁰⁸. There were guests on the bottom level of the building, which was inhabited by the accused's older brother, at the time of the occurrence. The visitor and his brother-in-law hurried upstairs after hearing the dead's cry and discovered the deceased wounded with blood all over the bed chamber; when asked,

¹⁰⁵ supra note 116.

¹⁰⁶ SC 1418, 129 AIR 2004

¹⁰⁷ Arun Garg v. Punjab State and Others (2004) SCALE 273.

¹⁰⁸ SC 4408 131 AIR 2004

she said, "Ve Mar Gaye." The accused was acquitted by the Additional Session Court, but the High Court sentenced them to ten years in jail and a fine of Rs. 10,000 under section 304. The Supreme Court also stated in *Rajkumar v. State of Madhya Pradesh*¹⁰⁹ that for conviction under sections 304B and 498A of the Indian Penal Code where only secondary or circumstantial evidence is available, the evidence must be such that it should be an entire sequence of actions, events, or conduct cementing the guilt of the accused and leaving no scope at all for the accused to be found not guilty.

The Session Court found Dr. Dalbir Singh not guilty under section 304B of the Indian Penal Code but guilty under sections 302 and 498A. The High Court found him not guilty under section 302 of the Indian Penal Code and found him guilty under section 306 of the Indian Penal Code, although the accused was not prosecuted under it. Because of the conflicting opinions of the courts, the Court chose to acquit him under the provision. The conviction under section 498A of the Indian Penal Code was upheld by the High Court. When the accused's demand for dowry was met by her father, she was tormented since the presents were of poor quality. In her letter, the deceased reported being harassed. The Supreme Court in *Dalbir Singh v. State of Uttar Pradesh*¹³³ looked at the relationship between sections 306 and 498A of the Indian Penal Code and decided that the latter might be used to help the prosecution prove the accused's guilt under the former provision. After reviewing the evidence, the Supreme Court found him guilty under section 306 of the Indian Penal Code.

The Trial Court found the accused guilty under section 498A of the Indian Penal Code based on the testimony of the witness. In the other relevant instances, the High Court found that there was no evidence of dowry demand before, during, or after marriage. In the case of *State of Andhra Pradesh v. Raj Gopal Asawa and Ors.*¹¹⁰, the Supreme Court held that when the concepts of dowry and cruelty are considered together, sections 498A and 304B of the Indian Penal Code and Section 2 of the Dowry Prohibition Act do not require a "agreement for dowry," but a plain demand would suffice for conviction and husband over dowry demands, the deceased and her one-

¹⁰⁹ supra note 131

¹¹⁰ AIR 2004 SC 1933

and-a-half-year-old daughter were compelled to commit suicide. The High Court upheld the conviction under section 498A of the Criminal Code.

However, he was acquitted under section 306 of the Indian Penal Code. The dead said in her deathbed confession that she poured kerosene on herself and her daughter and ignited the fire because of her mother-in-law's harassing. The deceased's father contradicted the testimony, claiming that she committed suicide due to misunderstanding rather than mistreatment by her in-laws. In *Lella Srinivasa Rao v. State of Andhra Pradesh*¹³⁵, the Supreme Court held that anomalies or contradictions between two statements made under section 32(1) of the Indian Evidence Act, as well as the lack of corroborating witness depositions, might warrant the accused's acquittal. The victim burnt herself with kerosene and was transported to the hospital. She said that she was burnt while cooking but made no mention of cruelty in her testimony. Another deathbed confession was recorded by the police, in which she said that she could no longer bear the pestering from her husband and in-laws, so she poured kerosene on herself and burnt herself. The accused was found guilty and sentenced under sections 304B and 498A of the Indian Penal Code. The High Court upheld and affirmed the lower court's decision. In *Nallam Veera Stayanandam and Ors. v. The Public Prosecutor, High Court of Andhra Pradesh*¹³⁶, the Supreme Court stated that when multiple statements are made under section 32(1) of the Indian Evidence Act, each statement must be read independently of the others, and one statement cannot be declared invalid because of the contents of another. The Supreme Court overturned the sentence imposed under section 304B of the Indian Penal Code and upheld the punishment imposed under section 498A.

In *Noorjahan v. State Rep. by D.S.P*¹¹¹, the Court emphasised that in order to trigger the penal provision under section 498A of the Indian Penal Code, the conditions listed in the section must be met as a result of the act in question, namely acts that would cause a woman to commit suicide or result in her death a severe psychological and bodily harm to herself. The Supreme Court dismissed the appeal on the grounds that

¹¹¹ Supra note number 92

she was not a party to the dowry demand. The brother-in-law was called as a witness and detailed the chronology of events leading up to the crime. The crime, criminal under section 302 of the Indian Penal Code, was committed by the husband, his sisters, and his brother (who subsequently became a party to witness). The appellant was the husband's aunt, who was not there at the time of the incident, and she had just mentioned the time limit for meeting their demand, which the deceased's mother agreed and for which she was acquitted. The other defendants had already been sentenced by the High Court and did not file an appeal.

The Apex Court observed in *Juglal and Ors. v. State of Haryana*¹¹² that a dying declaration recorded in the presence of a Judicial Magistrate and accompanied by a medical certificate from a doctor certifying that the deceased was in a fit state of mind to give the statement would be of great value and leave it with no reason to be disregarded by the Court. The appellant, together with Pawan Kumar, Ashok, Chanderpati, and Krishna, was found guilty by the Trial Court under sections 304B and 498A of the Indian Penal Code and sentenced to seven years in jail and a fine of Rs. 2,000. Except for Pawan Kumar, the other defendants were found guilty of crimes under section 302 of the Indian Penal Code and sentenced to life in jail. The appellant and the other two were found guilty of the above-mentioned offence by the High Court. The State appealed the High Court's acquittal of Pawan, Ashok, Chanderpati, and Krishna, but the Supreme Court upheld the acquittal and found the appellant guilty based on a deathbed statement made by the Judicial Magistrate in the presence of a doctor who confirmed the deceased's mental health.

The Court took a strong stance in *Dr. Arvind Barsaul and Ors. v. State of Madhya Pradesh and Ors.*¹¹³, holding that in cases of cruelty under the Indian Penal Code, if the parties have reached an agreement and it is not in the best interests of both parties to pursue the case, the charges can be quashed or set aside. The point of contention in this case was that the husband refused to relocate with his wife to his in-laws' home in Gwalior. The wife moved in alone to her parents' house after the husband filed for

¹¹² MANU/SC/7635/2008 156

¹¹³ SCALE 358 157 2008 (7)

divorce because she began to accuse him of being impotent. Divorce was agreed upon by both parties. The wife lodges a criminal case under Indian Penal Code sections 294, 506 and 34. They were accused by the wife of insulting her in public and disturbing her as a consequence. She further said that they had threatened her. The defendants were acquitted owing to a lack of evidence in their favour. The spouse was charged under section 498A of the Indian Penal Code, and the Judicial Magistrate First Class, Gwalior sentenced the appellant to 18 months in jail and a fine of Rs. 100/-. The appellant filed an appeal in Session Court against the prior ruling of Judicial Magistrate First Class, as well as a compromise petition under section 498A of the Indian Penal Code. The Court dismissed the compromise appeal to the High Court, which also dismissed the criminal charges. The respondent said that she is unwilling to pursue legal action against the appellant and so pushed the Court into unnecessary action. The claim was upheld, and the case was dismissed under section 498A of the Indian Penal Code.

In *Balwant Singh and Ors. v. State of Himachal Pradesh*¹¹⁴, the Court held that both sections 304B and 498A of the Indian Penal Code are mutually incompatible, and that a person sentenced under one cannot be released under the other. The complaint was filed under sections 498A, 304B, and 306 against the deceased's spouse, brother-in-law, father-in-law, and mother-in-law a section of the Indian Penal Code. The deceased was subjected to harassment as a result of her in-laws' dowry demand. She was discovered dead on the verandah of the marital house, as seen by her mother, and she filed a police report. The cops collected a sample of her vomit on the scene, as well as her damaged garments. The police also took custody of two letters written by the deceased. The doctor's postmortem report found that she was sixteen weeks pregnant and that circulatory failure was the cause of death. The accused was found guilty under sections 498A and 306 of the Indian Penal Code and acquitted under section 304B of the Indian Penal Code by the Trial Court. The High Court ruled that there is no evidence of an offence under section 306 of the Indian Penal Code. The

¹¹⁴ supra note 87

appellants' lawyer argued that since there is no violation under section 306 of the Indian Penal Code, no offence under section 498A of the Indian Penal Code can be established. The Supreme Court acquitted the brother-in-law based on witness testimony and the deceased's letters, but upheld the penalty against the father-in-law, mother-in-law, and spouse. Given the age of the mother-in-law and father-in-law, the Court reduced their previously served sentences and rejected the husband's appeal.

In *Rajendran and Ors. v. State Asstt. Commnr. of Police Law and Order*¹¹⁵, the Supreme Court reiterated that sections 498A and 304B of the Indian Penal Code operate in independent domains. Although not originally prosecuted under the later part, a person who was first charged under the latter section may be acquitted and held accountable under the former section. The Trial Court found the accused not guilty of an offence punishable under section 304B of the Indian Penal Code but guilty of an offence punishable under section 498A. The conviction under section 498A of the Indian Penal Code was upheld by the High Court. Rajendran and Shanthi married, and Shanthi was tormented, leading her to commit herself.

suicide by kerosene pouring. The High Court said that there was no deathbed statement or proof of harassment; nonetheless, the Court pointed to a witness from the deceased's neighbour who testified to the presence of torture. The Supreme Court ruled that although both sections 304B and 498A of the Indian criminal code are based on cruelty, they are not mutually exclusive. Section 498A of the Indian Penal Code defines cruelty and makes it a crime, but section 304B of the Indian Penal Code deals with a woman who dies within seven years of marriage and is subjected to cruelty by her in-laws due to a lack of valued security. The Supreme Court therefore rejected the appeal.

Similarly, in *Kishangiri Mangalgi Goswami v. State of Gujarat*¹¹⁶, the Court stated that abetment to suicide would imply goading a person to take his or her life rather than simple cruelty when analysing sections 306 and 498A of the Indian Penal Code. The provisions were exclusive portions, according to the Court, and a person

¹¹⁵ *Supra*, note 88

¹¹⁶ SC 1808 SC 160 AIR 2009

acquitted of abetment to suicide might still be held accountable for cruelty. The dead committed suicide as a result of mental and physical abuse, as well as her husband's and in-laws' demands for dowry. The culprit was sentenced to jail and a fine by the Session Judge. The sentence imposed by the Session Court was upheld by the High Court. According to the Supreme Court, the deceased's letter was not signed by her and did not refer to a specific person. There was no evidence to show the extent of the harassment that led to the deceased's suicide; simply treating the wife cruelly is not enough to prove suicide abetment. It was reported that he was convicted under section 498A of the Indian Penal Code and section 3 of the Domestic Violence Act.

The Apex Court stated in *State of A.P. v. Guvva Satyanarayana*¹¹⁷ that in circumstances of considerable inconsistencies in the First Information Report and statements made under oath.

The accused may be acquitted under section 32(1) of the Indian Evidence Act. The High Court doubted the deathbed statement and determined that the Trial Court's finding of guilt under section 302 of the Indian Penal Code was overturned, however the sentence under section 498A of the Indian Penal Code was upheld. The Supreme Court agreed with the High Court's remark and did not intervene.

In *Varikuppal Srinivas v. State of A.P.*¹¹⁸, the Court held that if a statement made under section 32(1) of the Indian Evidence Act is factual and accurate, as well as voluntary, it might be sufficient to show conviction for dowry killing and cruelty under the Code. Manjula married Varikuppal Srinivas, and six years later, she took acid to terminate her life. She was taken to the hospital for treatment. Because she is unable to communicate, the Sub Inspector is unable to record her statement on his routine visit. The Sub Inspector sends a Constable to the hospital to obtain the deceased's statement once she recovers from her throat deformity. The statement was recorded by the constable, and the accused was charged with violating sections 498A and 307 of the Indian Penal Code. The accused was found guilty by the Trial Court based on the deathbed statement. The High Court was unable to establish sufficient

¹¹⁷ SC 101, 161 AIR 2009.

¹¹⁸ Supra note at 72

evidence to condemn the husband despite the lack of evidence against his father-in-law. The court decided that the deathbed pronouncement must show that it is reasonable in light of the circumstances. The Court's primary concern is that the deathbed pronouncement is free of influence or imagination, and that she is in a competent condition of mind to commit the crime. The Supreme Court upheld the trial court's and high court's decisions.

The Supreme Court dropped accusations of cruelty at the request of the parties in *Arjun Bahree and Ors. v. State of NCT, Delhi*¹¹⁹ because it was a necessary requirement for the trial.

The successful filing of a mutual consent divorce petition. The Delhi High Court heard the case under sections 498A and 406 of the Indian Penal Code. The husband and wife also filed for divorce, and the husband asked her to quash the case under Indian Penal Code section 498A. The High Court dismissed the request to halt the proceedings under Indian Penal Code section 498A. The Supreme Court allowed quashing of the procedure after another appeal.

In *Syed Hakkim and Ors. v. State rep. by Dy. Superintendent of Police, Karur District, Tamil Nadu*¹²⁰, the Court held that when dealing with circumstantial evidence, adjudicating bodies must ensure that the evidence is presented in a sequence that leaves no room for any other conclusion or inference than the accused's guilt. This was an instance of heinous brutality and murder. Seven people were charged for violating sections 498A and 302 of the Indian Penal Code. The Supreme Court ruled that the application of section 302 of the Indian Penal Code could not be sustained and was therefore overturned, but the charge of violating section 498A of the Indian Penal Code was upheld.

Furthermore, the Court noted in *Riyojoddin Rafiyoddin Shaik v. State of Maharashtra*¹²¹, represented by Public Prosecutor, that circumstantial evidence must be weighed against a comparable norm or benchmark in order to be utilised in

¹¹⁹ MANU/SC/1380/2009 163

¹²⁰ SCALE 277 164 2009 (3)

¹²¹ SCALE 515 165 2009 (3)

determining an accused's guilt. The deceased's parents provided dowry in the form of cash and gold when the appellant and the deceased married. The deceased's spouse mistreated her and demanded money from her. The dead was taken to her parents' home by her mother-in-law and father-in-law and abandoned there. She informed her parents about her husband's mistreatment of her. There was a wedding ceremony for the deceased's maternal relative, which was attended by her brother and her spouse. At the occasion of the relative's marriage, the husband and his brother made a demand of Rs. 2,000. The deceased's father got a message about her terrible condition around midnight, and when he arrived, he found her lifeless corpse. He filed a lawsuit accusing his spouse of murdering his daughter and being abusive in his demand for money. The accused's other relative assisted him in committing the crime. The relatives were acquitted, but the husband was found guilty of violating sections 302 and 498A of the Indian Penal Code. On appeal, the accused's attorney argued that there is no direct proof that the accused sprayed kerosene on the dead and lit him on fire, that the decision is based on circumstantial evidence, and that the death was caused by an electrical short circuit. The Court concluded that if the guilt is dependent on circumstantial evidence, it must be sufficiently substantial to establish the accused's guilt. The post mortem report clearly showed that the victim died as a consequence of burns caused by spraying kerosene, which was sufficient to establish the accused's guilt, and therefore the sentence imposed by the Trial Court and the High Court should be carried out without delay.

In *Satish Kumar Batra and Others v. State of Haryana*¹²², the Court clarified and emphasised the requirements and circumstances under which the Code's clause on cruelty might be formed. Santosh Kumari was tormented by several of her husband's family, including his mother-in-law, brother-in-law, father-in-law, sister-in-law, and brother-in-law. The boy's father gifted everyone of the boy's family members with goods valued Rs. 1,50,000/ at the time of their marriage. Following their marriage, the victim's husband wanted money on a monthly basis, which was met by the victim's

¹²² 6 SCC 533, 167 (2010)

father. All of the members tormented the victim, and she was repeatedly kicked out of the home. Her husband attempted to burn her alive, but she managed to flee the home. Her neighbours offer their condolences and reassurance that in the future, her in-laws will act correctly. They also persuaded her not to go to the police station. The husband's and his relatives' conduct remained unchanged. One day, her husband begged her to go to her parents' place and not return until she had enough money to purchase a house. They also warned her that if she returned home empty-handed, she and her children would perish. After an inquiry, the Trial Court found the accused not guilty under section 406 of the Indian Penal Code, but guilty under section 498A of the Indian Penal Code, and sentenced them to two years in jail and a fine of Rs. 500 each. The co-accused were acquitted because the witness could not provide enough evidence to condemn them, however the appellant was found guilty under section 498A of the Indian Penal Code. The Supreme Court found the appellant guilty of an offence under section 498A of the Indian Penal Code, but reduced his sentence from two years to thirteen months.

The Supreme Court rules in *Govindappa and Ors. v. State of Karnataka*¹²³ that the lack of a doctor's certificate cannot be the primary grounds for rejecting a dying declaration if the person recording it is convinced that the victim was in a sound state of mind at the time of recording. Renuka, the victim, was set on fire in front of her neighbours and fled. The corpse was wrapped in a blanket to put out the fire, and the neighbours rushed her to the hospital and alerted the police. The deceased's statement was obtained by Govindagowda Patil, a neighbour. She was unable to provide a statement when the investigation officer arrived the following morning to collect it. The Trial Court found them guilty under sections 498A, 143,147,341,302 of the Indian Penal Code and sentenced them to two years of rigorous imprisonment and life imprisonment, respectively, as well as fines of Rs. 2,000 and 10,000. The mother-in-law and grandmother-in-law were acquitted by the High Court, while the remainder of

¹²³ supra note 82.

the defendants were found guilty. The Supreme Court considers the prosecution's case.

All of the differences were overruled, and the charge against the accused was thoroughly proven, according to witnesses, who backed up the High Court's decision. The Supreme Court observed in *Preeti Gupta and Ors. v. State of Jharkhand and Ors.*¹²⁴ that the majority of cases filed under section 498A of the Indian Penal Code are often filed while influenced by a strong present emotion such as acrimony, rage, indignation, and so on, without giving any thought to the potentially disastrous consequences. The Law Commission of India was asked to check the misuse of the section on the recommendation of India's Home Minister; as a result, the Supreme Court in the said case observed that legislations must be reconsidered to formulate the entire section because a large number of grievances have been reported. 169 In its 243rd Report, the Law Commission of India also said that the clause should not be used by the police to pursue irrational acts. The commission went on to say that a single suspicion of abuse cannot affect the section's overall goal. Of course, the commission appreciates the need to address unfounded complaints against both men and women. Women's rights should be strengthened with family values. Poor and illiterate women who are harassed by their husbands and relatives must also be protected, for which Taluka and District legal services authorities should be active, and NGOs should raise awareness about family members' rights and responsibilities in general, and women's rights in particular.

The Supreme Court ordered the Law Commission to investigate whether the offence under section 498A of the Indian Penal Code could be made compoundable in *Ramgopal and Ors v. State of M.P. and Ors.*¹²⁵

The Court stated in *Bhushan Kumar Meen v. State of Punjab and Ors*¹²⁶. that even if the complaint is filed by the wife, the case will be dismissed if a primary case is not established. The appellant and the respondent were married but living apart in

¹²⁴ Ibid.,

¹²⁵ SCALE 711 170 2010 (7)

¹²⁶ (1)CLJ(SC) 40, 2012

Gujarat. The respondent filed a case against the appellant under Indian Penal Code sections 406 and 498A. The Patiala Women's Cell investigated the matter and discovered that, despite the fact that the respondent filed the complaint, she was living with her husband and the two were travelling around India. Despite their disagreements, the Cell saw that they were maintaining their marital ties and attending all of their family functions. The husband was attempting to maintain their relationship, whereas the wife's intention was to teach her in-laws a lesson. Due to the wife's in and out relationships, the High Court dismissed the application under section 482 of the Criminal Procedure Code. The appellant was not charged with any crime under section 498A of the Indian Penal Code.

The court stated in *A. Subash Babu v. State of Andhra Pradesh and Ors*¹²⁷ that in cases where a second marriage is solemnised without disclosing a previous marriage, the woman in the second marriage has the right to file a complaint against the husband for cruel treatment. The petitioner defrauded the complainant by claiming that his first wife was still alive. He also harassed her by demanding money in order to purchase a home. He threatened her father with his handgun if they did not comply with his demand, and he also threatened to end their marriage by erasing any traces of their union. She filed a complaint against him under Indian Penal Code sections 498A and 420. The charge sheet for the offences punishable under sections 494, 495, 417, 420, and 498A of the Indian Penal Code was presented to the Judicial Magistrate First Class. The appellant filed a petition claiming that the accusation against him was based on the charge sheet presented by the Police Sub Inspector. The appellant argued that the complaint should be made by his wife or someone acting on her behalf, rather than the Sub Inspector of Police. The appellant also argued that because the complainant was not his wife, section 498A of the Indian Penal Code did not apply, and thus the charges should be dismissed. The petition was partially accepted by the High Court, which quashed the offence under Section 498A of the Indian Penal Code. The remaining offences were committed in accordance with legal procedure and thus

¹²⁷ SC 3031, 172 AIR 2011.

cannot be overturned. On further appeal, the appellant's counsel argued that offences under sections 494 and 495 of the Indian Penal Code could not be prosecuted based on a charge sheet submitted by the police because such an act by the police is illegal and in violation of section 198 of the Criminal Procedure Code. The injured party, namely the married wife, shall file a complaint with the court and the police under sections 494 and 495 of the Indian Penal Code. The respondent contended that the proceedings are legitimate and genuine since the charged sheet was prepared after a thorough study of the matter. The Supreme Court found no mention of the offence of 498A of the Indian Penal Code by the complainant after hearing both sides. The woman may have gone through such anguish after learning of her first wife's living situation and the appellant's rejection of her as his wife. As a result, the Court reversed the High Court's decision to strike down section 498A of the Indian Penal Code. The Investigating Officer's charge sheet is found to be legitimate, and the appeal is dismissed.

The court outlined the criteria for accepting a dying declaration in *Surinder Kumar v. State of Punjab*¹²⁸. A deathbed proclamation or a question-and-answer interview cannot have a set framework. The court ruled that the act of narrating the declaration in detail demonstrates the victim's mental well-being, and that the declaration is valid. In his deathbed statement, the dead said that

her husband was the only one who demanded dowry, and none of her in-laws were involved. She also revealed that she had not notified her parents about her husband's dowry demand and subsequent abuse. She had asked her mother-in-law to please explain the matter to her husband and not to seek dowry. She went on to say that after her death, her sister should not marry her husband and that her daughter should also stay with him. The deathbed statement was accepted by the Trial Court as sufficient evidence to establish the accused's guilt and sentence him to jail under sections 304B and 498A of the Indian Penal Code. The Trial Court's conviction was upheld by the High Court. The Supreme Court stated that the deceased stated detailed facts that even

¹²⁸ SCALE 219, 173 2012 (11).

strangers could understand; the information given by the deceased in the presence of two doctors and an Assistant Sub Inspector of Police could not have been known to them otherwise, indicating that she was in a good mental state throughout the recording of her dying declaration. The Court confirmed the Trial Court and High Court judgments and rejected the appeal after considering all relevant material.

It was decided in *Sheoraj Singh Ahlawat and Ors. v. State of Uttar Pradesh and Ors.*¹²⁹ that a court cannot dismiss a person just because they come from a well-known family and have a superior social standing. The Court said that the allegations levelled against the spouse and his parents were too precise to be dismissed. Renu Ahlawat was married to Naveen Ahlawat and had a daughter with him. Her father-in-law and mother-in-law used to badger her about dowry demands. The complainant's father contributed Rs. 4 lakhs to the purchase of a fancy automobile. Even so, the torment continued, and one day they pushed her into the vehicle and abandoned her in a lonely spot, warning her with a gun that if she returned to their home, she would be murdered. When the two villagers observed her crying by the road, they urged the appellant not to torment her, but they were threatened with a gun and told to leave her alone should take care of their own affairs. The appellant was charged with violating section 498A of the Indian Penal Code. Renu discovered that her spouse had obtained an ex parte divorce by forging her signature and remarried to another woman. Because the police had submitted a closure report, the court took notice of the protest petition filed by for an infraction under section 498A of the Indian criminal code. The appellant filed an application claiming that the clause should be invalidated since there was no dowry demand, but the Court rejected it. The appellant's counsel contended that the Investigation Officer had looked into the situation and found no evidence to back up the wife's allegations, and that the witnesses were planted by the wife since her husband had remarried. In response, the respondent stated that she was still living in her marital home when he filed the divorce lawsuit. The Trial Court declined to dismiss the accused on the grounds that they had presented since any such

¹²⁹ SC 3031, 172 AIR 2011

factor could only be considered after the trial. Due to their age, the Court excused the father-in-law and mother-in-law from appearing in court unless absolutely required. The spouse, on the other hand, must be in court for the trial. As a result, the Court declined to release the appellant without a trial.

The court noted that evidence of harassment in connection with dowry demand was proven in *Devinder and Ors. v. The State of Haryana*¹³⁰, but the components of section 304B of the Indian Penal Code were not met. The husband and his mother were found guilty under sections 498A and 306 of the Indian Penal Code by the Session Court. The dead was chastised for failing to bring dowry and for failing to have a child after many years of marriage. The case was referred to panchayat, where a compromise was reached, and the father-in-law promised that there would be no more complaints and that the dead would be treated with great care. She did not complain when her brother came to see her; nevertheless, word of the deceased's sickness arrived shortly after. The deceased's father paid her a visit.

She was discovered in excellent health. After a few days, word of the deceased's death reached the father, and a complaint was filed with the police station under sections 498A and 306 of the Indian Penal Code. According to the accused, the deceased was unhappy since she was unable to have a child of her own; this frustration increased when her brother had a kid within a year of their marriage, prompting her to commit herself. After the pledge to the panchayat, the torture was no longer carried out. The Supreme Court ruled that the prosecution had failed to establish the charges beyond a reasonable doubt, and the appeal was granted.

The court remarked in *Rakhal Debnath v. State of West Bengal*¹³¹ that the deceased was pushed to the point of committing suicide by pouring kerosene on her and setting her on fire. Harassment and demand for valuable materials were proven by the evidence. After the dead Krishna married Rakhal Debnath, her husband sought Rs. 40,000/ from her father for business, which he refused. The appellant claimed that he

¹³⁰ SC 3031, 172 AIR 2011.

¹³¹ SC 3031, 172 AIR 2011

knew how to get money out of his daughter. Within 35 days after her marriage, she was discovered dead. The accused was acquitted by the Trial Court since the occurrence was unintentional. The accused was found guilty by the High Court on the grounds that the dead had notified her parents about her husband's desire for money and that he had an illegal relationship with his niece, which she did not like. She had also expressed her dissatisfaction to her brother and cousin. The father had not reported the unlawful relationship of his son-in-law to anybody, indicating that his allegation was correct. The Court further proved that the deceased's gold was held on lease for Rs. 11,000/, that the person with whom the gold was kept said the same, and that the deceased's father recognised the gold and showed the receipt for the same. The smell of kerosene on her corpse was corroborated by the post mortem report, as was the presence of an empty kerosene can and a towel coated in kerosene scattered in the kitchen. The Supreme Court emphasised that all of the aforementioned facts should prove beyond a reasonable doubt that the deceased was forced to commit suicide and that dowry was demanded. The appellant was found guilty under sections 306 and 498A of the Indian Penal Code by the High Court. The Supreme Court likewise rejected the appeal because it lacked merit.

Surinder Singh v. State of Haryana decided that since the witnesses who saw the harassment include the spouse and his family, extracting truth from them is difficult. If the sections' criteria are met, the offender should be condemned, according to the Court. The accused hounded Anita shortly after their marriage, demanding money for her husband to establish a company. Her in-laws starved her and subjected her to physical abuse. The deceased alerted her parents and brother about the harassment and dowry demand. The deceased's brother and brother-in-law went to see him and expressed their displeasure with the in-laws' actions. They demanded that if he really loved his sister, he give Rs. 60, 000 to the appellant in order to establish a company; the brother said that he is unable to match their demands. The younger brother arrived to take her home for a few days, but her in-laws refused. When the appellant's uncle informed her departed parents about her suicide, her whole family proceeded to her

marital house. They file a case against her in-laws under Indian Penal Code sections 304B and 498A. The defendants were found guilty under the abovementioned provisions and sentenced to seven years in jail under section 304B of the Indian Penal Code and two years in prison under section 498A of the Indian Penal Code. The High Court upheld the Trial Court's decision, but acquitted the father-in-law and mother-in-law because there was insufficient evidence against them. The appellant's counsel stated that the parent-in-laws were acquitted by the High Court owing to a lack of evidence. Similarly, there is no evidence to support the other accused's allegations, and they should be acquitted. According to the Supreme Court,

There had been no witness to the harassment and abuse that took place inside the house's four walls. There can be no direct proof of such an event occurring inside the confines of the home. The Court upheld the Trial Court's and the High Court's decisions.

"Making a dowry demand is not enough to bring about conviction under the provisions; the dowry murder victim should be treated with cruelty or hounded for dowry by her husband or family," the Court said.¹³²

Janki Devi's father offered her husband, Darshan Ram, a dowry based on his financial situation at the time of their marriage. Darshan Ram's siblings, sister, and mother made a demand for additional money. They tormented her since her father couldn't meet their demand. Janki Devi went to her father's house just before her death to seek Rs. 10,000 for the in-laws to purchase a vehicle. The deceased's father, Nath Ram, borrowed the money to satisfy their demands. There was a demand for Rs. 30, 000/ fifteen days before her death, which her father was unable to provide, so he accompanied her to her in-laws' home to ask them not to overburden him. The deceased's spouse requested that the deceased's father take her away and return her only when they could meet their demands. The father abandoned her at her marital house and returned alone. When her father and uncle arrived at her matrimonial home after learning of her death, they discovered her lifeless corpse on a cot on the

¹³² Bholu Ram v. Punjab State, AIR 2014 SC 241.

verandah. They filed a complaint against their son-in-law's under Indian Penal Code sections 304B and 498A. According to the post mortem report, the death was caused by poison intake. Sections 304B and 498A of the Indian Penal Code were utilised to sentence all of the defendants. The brother and sister were acquitted on appeal to the Session Court since they live apart, but the husband, mother-in-law, and brother-in-law were found guilty. The appellant, a brother-in-law, only appealed to the High Court; the husband's conviction was already confirmed.

In the meanwhile, the mother-in-law passed away. The brother-in-law was acquitted by the Supreme Court since there was no concrete evidence against him. The Court went on to say that it took them nine years to get a final judgement in this case and that in order to achieve justice, they should become policymakers.

The Court in *Chhotan Sao and Ors. v. State of Bihar*¹⁷⁹ found the defendants guilty of cruel conduct for requesting dowry, but acquitted them under section 304B of the Indian Penal Code for failing to show unnatural death. The Court chastised the public prosecutor for gathering inadequate evidence that led to the accused's acquittal.

If an adulterous connection outside of marriage is not proven beyond a reasonable doubt, it is not considered a criminal offence. It is not always cruelty when a husband is unable to perform his marital obligations owing to the development of an intimate connection with another woman.¹⁸⁰ The spouse was found not guilty under section 304B of the Indian Penal Code. He was found guilty under Section 498A of the Indian Penal Code by the Session Court. The High Court upheld his conviction under section 498A of the Indian Penal Code, which sentenced him to two years in jail and a fine of Rs. 2,500, as well as five years in prison and a fine of Rs. 5, 000 under section 306 of the Indian Penal Code. He took his case to the Supreme Court, arguing that extramarital affairs cannot be punished under section 498A of the Indian Penal Code, nor can they cause the wife to commit suicide. The State's Counsel maintained that the deceased's extramarital affair had caused her such distress that she committed suicide. The Court noted that the deceased's letter to her father said that she was

excessively possessive of her spouse and mistook his usual relationship with his buddy for an affair and committed adultery.

Due to the instability of their relationship, they committed suicide. As a result, the conviction was overturned and the spouse was released free.

According to the court, "Courts must not intervene with the conclusions of Lower Courts unless there is definite mistake obvious on the face of record."

The Court in *Banarsi Dass v. State of Haryana*¹³³ penalised the accused for tormenting the dead for the time already completed, but not for the act of dowry death since the death was determined to be accidental.

The appeal was partially permitted in *Harish Kumar v. State of Haryana*¹³⁴, since dowry death was not proven and they were only penalised for harassing the dead by accepting dying statement as legitimate evidence.

The Court found both the father-in-law and the husband guilty of dowry demand and tormenting the dead based on independent eyewitness testimony, but acquitted the brothers-in-law.

The doctor documented injuries to the deceased's body at various periods, and the depositions of villagers who sought to halt the brutality were acknowledged by the Court as conclusive evidence of the accused's guilt.

On the basis of witnesses who detailed the deed and who happened to be common relatives of both sides, the mother-in-law was found guilty of offering and suffering to the dead, while the father-in-law and husband were acquitted.¹³⁵

Although there was no direct proof of dowry demand or the dead being treated cruelly in *Baljinder Kaur v. State of Punjab*¹³⁶, the Court utilised circumstantial evidence to infer the charge of dowry demand and convicted the defendants.

¹³³ AIR 2014 SC 331 in *Pinakin Mahipatray Rawal v. State of Gujarat*.

¹³⁴ SC 907 179 AIR 2014

¹³⁵ *Kanchanben Purshottambhai Bhanderi v. Gujarat State*, 2 SCC 690, (2015

¹³⁶ 2 SCC 629, 187 (2015)

In *Srikant v. State of Madhya Pradesh*¹³⁷, the Court based its judgement on two deathbed declarations that established the essential component of section 498A beyond a reasonable doubt, allowing the accused to be convicted.

The Court accepted the appeal in *Abdul Jabbar v. State of Haryana*,¹³⁸ because there was no proof of the husband's demand for expensive security.

In *Sultan Singh v. State of Haryana*¹³⁹, the deceased's brother and father testified in court about a dowry demand. The accused was found guilty since there was no reason to doubt it, and the death occurred in an unnatural manner.

The charge is not established when there is no proof of unnatural death within seven years of marriage or suicide owing to dowry demand, hence the offender is acquitted.

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The Supreme Court issued guidelines in *Arnesh Kumar v. State of Bihar*¹⁴¹ to combat the threat of spurious charges being brought under section 498A of the Indian Penal Code and to avoid undue concern, disturbance, and turbulence in the lives of individuals wrongfully accused. The laws even allowed for detention to be postponed unless specific circumstances were met. The court issued the following orders:

1. "All state governments should urge their police personnel not to arrest anyone who have been charged under Section 498-A of the Indian Penal Code." but to ascertain the need of arrest within the above-mentioned conditions derived from Section 41 of the Code of Criminal Procedure;
2. Under Section 41(1)(b)(ii), all police officers should be given a check list with specific subclauses.
3. The police officer must transmit the properly filed check list, as well as the reasons and materials that led to the arrest, to the Magistrate for continued custody of the accused.

¹³⁷ MANU/SC/1259/2014, p. 188.

¹³⁸ CCR195 189 II(2015) (SC).

¹³⁹ 14 SCC 664, 190 (2014)

¹⁴⁰ AIR 2014 SC 3388, Ramaiah v. State of Karnataka.

¹⁴¹ supra note 67

4. Before authorising detention of the accused, the Magistrate must review the report provided by the police officer in the conditions stated above, and only after recording satisfaction would the Magistrate authorise detention.
5. Within two weeks after the institution of the case, the decision not to arrest an accused be given to the Magistrate with a copy to the Superintendent of Police of the district for reasons to be documented in writing;
6. The accused must be issued with a notice of appearance under Section 41A of the Code of Criminal Procedure within two weeks of the case being filed, which may be extended by the Superintendent of Police of the District for reasons to be documented in writing;
7. Failure to comply with the aforementioned directives will subject the police officers involved to departmental discipline as well as a charge of contempt of court, which will be brought before the High Court with territorial jurisdiction.
8. Authorizing detention without documenting the judicial Magistrate's reasons will be subject to departmental action by the relevant High Court."

The Supreme Court did not interfere in the Trial Court's decision of conviction, which was supported by the High Court, since it was based on witness accounts and the dying declaration, which clearly demonstrated dowry demand and harassment of the dead.

The idea of "Relative of Husband" was defined by the Court in *State of Punjab v. Gurmit Singh*¹⁴² as a person connected to the husband by blood, marriage, or adoption.

If the deathbed statement has all of the necessary parts, it cannot be dismissed just because it is written in question and answer format.¹⁴³

In *Mangat Ram v. State of Haryana*¹⁴⁴, the Court considered the nature of cruel behaviour on the part of the husband and concluded that it is not necessary that all

¹⁴² SC 2561 195 AIR 2014

¹⁴³ 2014 (6) SCALE 771, *Satish Chandra and Others v. State of Madhya Pradesh*.

women who die within seven years of marriage die as a result of harassment by her in-laws or husband, or because her husband refuses to take her to her place of posting for valid reasons, constitute cruel behaviour for which she should commit suicide.

In *Bhanuben and Ors. v. State of Gujarat*¹⁴⁵, the deceased was tortured for demanding valuable goods from her parents' home, for which she filed a complaint against her husband, who brought her home but continued to torture her; as a result, she moved to an ashram but visited her husband's house to meet her daughter. On one such occasion, he was poisoned and killed. She said in her deathbed statement that she got those drugs by accident. The Court stated that cruelty would continue to exist even if the wife continued leaving and returning to the marital home due to some emotional factor, such as the fact that in the current instance, the little daughter was in the care of the husband according to a mutual agreement. The Court further emphasised that sections 306 and 498A are separate statutes, and that conviction in one does not necessarily imply guilt in the other.

In *Monju Roy and Ors.v.State of West Bengal*¹⁴⁶, the Court decided that when all family members from the husband's side have been listed, one cannot discount the potential of "exaggeration" since not everyone would stand to gain, from the dowry received from the wife's family. The disagreement of the whole family over the dowry demand was deemed unrealistic.

The lady in *Taramani Parakh v. State of M.P. and Ors*¹⁴⁷ cannot live with her in-laws because she fears for her safety. The Supreme Court ruled that it would be erroneous for the Court to dismiss the proceedings at an early stage if a woman was forced to leave the marital home due to harassment that made her feel insecure or a feeling of lack of protection.

¹⁴⁴ SC 1782, 197 AIR 2014.

¹⁴⁵ SC 3405 198 AIR 2015

¹⁴⁶ SCALE 288 199 2015 (5)

¹⁴⁷ SCALE 616 200 2015 (3)

The couple was residing separately in the same residence, according to the court in *Ghusabhai Raisangbhai Chorasiya and Ors. v. State of Gujarat*¹⁴⁸. There were no instances of the husband's harsh conduct or physical and mental torture, and the prosecution was unable to establish that she had an extramarital relationship that caused her to commit suicide. The Court was unable to find the defendant guilty of cruelty and aiding suicide.

In *Sher Singh v. State of Haryana*¹⁴⁹, the Court held that the evidence presented by the prosecution was insufficient to establish that the accused had engaged in cruel conduct, and hence he was acquitted. The appellant had no basis to support their claims since the prosecution did not provide sufficient evidence to demonstrate guilt.

In *Ramesh and Ors. v. State of Haryana*¹⁵⁰, the Supreme Court stated that the High Court's conclusion that the dying declaration was a valid piece of evidence was correct because the doctor certified that the patient was in a good mental state to give the statement to the Magistrate and that proper precautions were taken while taking the statement. It was pointed out that a statement made under section 32(1) of the Indian Evidence Act may be made even to a doctor in circumstances where the lady (under section 498-A) is on the verge of death and is breathing her last and the presence of authorities authorised to record it is hard to get.

In *Satish Shetty v. State of Karnataka*¹⁵¹, the Court held that a demand to invest in one's business constituted harassment for "property or valuable security." In this case, the Trial Court misinterpreted the facts, but the High Court meticulously followed the evidence sequence and dismissed the appeal. There was an eye witness, and the deceased's letters describing her condition and physical bruises on her body plainly proved that she had been harassed. The statement included in the First Information Report was likewise ignored by the Trial Court.

¹⁴⁸ SC 2670 201 AIR 2015

¹⁴⁹ SC 980 202 AIR 2015

¹⁵⁰ supra note 78.

¹⁵¹ SC 2689 204 AIR 2016

In the case of *State of Karnataka v. Dattaraj and Ors.*¹⁵², it was held that the type of gifts must be analysed in order to establish if they constituted dowry since the family has a tie before marriage and exchanges presents. A 20,000 demand was made after a two-year interval, with no demand or harassment occurring between those dates. As a result, there was no evidence of cruelty.

The couple got married in *Varala Bharath Kumar and Ors. v. State of Telengana and Ors.*¹⁵³, but they could only be together for 20 days since the husband was hospitalised for two days and then moved to Australia. The wife accused him of being uninterested in physical interactions and filed a harassment lawsuit against him. Due to a lack of evidence, the Court was unable to prove the case of harassment. The elements of criminal breach of trust, as asserted by the wife, could not be demonstrated. The charges under section 498A of the Indian Penal Code might be annulled if they are not proven beyond a reasonable doubt, according to the Court.

The Supreme Court said in *Rakhi Mishra v. State of Bihar and Ors.*¹⁵⁴ that quashing the continuance of proceedings where a main instance of harsh treatment is established in F.I.R. would be erroneous in law.

The Supreme Court ordered that Family Welfare Committees be established to hear information and make recommendations in *Rajesh Sharma and Ors. v. State of U.P. and Ors.*¹⁵⁵

Conduct investigations at the sub-divisional level, and take action against the accused only after the investigation is completed.

The Court gave the following instructions:

(a) The District Legal Services Authorities should form one or more Family Welfare Committees in each district, preferably with three members. The District and Sessions Judge of the district, who is also the Chairman of the District Legal Services

¹⁵² SC 882 205 AIR 2016

¹⁵³ supra note 71.

¹⁵⁴ SC 4019 207 AIR 2017

¹⁵⁵ SC 3869 208 AIR 2017

Authority, may review the composition and operation of such committees from time to time and at least once a year.

(b) The Committees may be made up of paralegals, social workers, retirees, spouses of working officers, and other individuals who are judged to be eligible and willing.

(c) The members of the Committee will not be summoned as witnesses.

(d) Every complaint received by the police or the Magistrate under Section 498A be submitted to and investigated by such committee. The parties may engage with the committee in person, over the phone, or via any other manner of contact, including electronic communication.

(e) Within one month of receiving the complaint, the committee's report is sent to the Authority by whom the complaint was submitted.

(f) The committee may provide a short report on the facts and its position on the issue.

(g) No arrests should ordinarily be made until the committee's report is received.

(h) The Investigating Officer or the Magistrate may thereafter assess the report on its own merits.

I Members of the committee may receive whatever minimal minimum training the Legal Services Authority deems essential from time to time.

(j) The members of the committee may be compensated in any way that is reasonable.

(k) The District and Sessions Judge shall have discretion to use the expense fund as needed and appropriate.

ii) Only an authorised Investigating Officer of the region may probe complaints under Section 498A and any related offences. Within one month of today, such designations may be made. Such a designated officer may be compelled to attend training for as long as it is deemed necessary (at least one week). The training might be finished in as little as four months;

iii) In situations where a settlement is achieved, the District and Sessions Judge or any other senior Judicial Officer appointed by him in the district will have the authority to close the criminal case if the issue is principally about marriage discord;

- iv) A bail application filed with at least one clear day's notice to the Public Prosecutor/complainant may be considered on the same day, if practicable. Recovery of disputed dowry goods may not be a reason for refusal of bail if the wife's or minor children's maintenance or other rights may be secured in other ways. Individual roles, prima facie veracity of the claims, necessity of future arrest/custody, and interest of justice must all be carefully assessed when dealing with bail issues.
- v) Passports should not be impounded or Red Corner Notices issued routinely in the case of those who live outside of India.
- vi) The District Judge or a designated senior judicial official selected by the District Judge shall have the authority to group all linked matters between the parties arising out of marriage disputes in order for the Court to take a holistic perspective of all such cases; and
- vii) All family members, particularly outstation family members, may not be required to appear in person, and the trial court should grant an exemption or allow video conferencing appearances without jeopardising the trial's progress.
- viii) These guidelines will not apply to crimes involving serious bodily harm or death."¹⁵⁶

In light of the settlement reached by both parties via the Court's conflict resolution services, the charge under section 498A of the Indian Penal Code was dismissed.¹⁵⁷

The court granted the following instructions in the matter of Social Action Forum from Manav Adhikar and Ors. v. Union of India, Ministry of Law and Justice and Ors.¹⁵⁸:

"1. All state governments should instruct their police officers not to automatically arrest when a case under Section 498-A of the Indian Penal Code is filed, but rather to determine whether an arrest is necessary under the parameters outlined above, as derived from Section 41 of the Code of Criminal Procedure;

¹⁵⁶ Supra, note 208.

¹⁵⁷ Manit Kumar v. Sneha Parikh SC 575, AIR 2018.

¹⁵⁸ SC 4273 211 AIR 2018

2. Under Section 41(1) (b) (ii), all police officers should be given a check list with specific sub-clauses.
3. While forwarding/producing the Accused before the Magistrate for further detention, the police officer must complete the check list and provide the grounds and documents that led to the arrest.
4. Before authorising the custody of the Accused, the Magistrate shall examine the report provided by the police officer in the conditions above and will only do so after recording satisfaction with it.
5. The decision not to arrest an Accused must be sent to the Magistrate with a copy to the Magistrate within two weeks of the date of the institution of the case, which may be extended by the Superintendent of Police of the district for reasons to be documented in writing;
6. The Accused is issued with a notice of appearance under Section 41-A of the Code of Criminal Procedure within two weeks of the case being filed.
This may be extended by the district's Superintendent of Police for reasons to be documented in writing;
7. Failure to comply with the aforementioned directives will subject the police officers involved to departmental discipline as well as a charge of contempt of court, which will be brought before the High Court with territorial jurisdiction.
8. Authorizing detention without documenting the grounds as stated by the Judicial Magistrate in question is subject to departmental action by the competent High Court."¹⁵⁹

3. Conclusion:

Following the instances from 1987 to 1990, it is respectfully urged that, due to its immaturity, the Hon'ble Supreme Court approached the idea of cruelty under section 498A of the Indian Penal Code with caution. The Supreme Court looked at sections

¹⁵⁹ supra note 211.

304B and 498A of the IPC and determined that they are not mutually exclusive. In showing guilt under section 498A of the Indian Penal Code, the Court again emphasised the value of direct proof above circumstantial evidence.

During a ten-year period (1991-1999), the Hon'ble Supreme Court recognised the strong and undeniable link between sections 498A and 304B of the Indian Penal Code, and thus made extensive observations on the value and validity of dying declarations when dealing with cases under those sections. The Supreme Court also recognised the hazardous nature of Indian Penal Code section 498A, which might be used to entrap unwary relatives of the husband, and increased the proof requirements for proving guilt under the provision. The Supreme Court issued a warning that subordinate courts should bear in mind when determining guilt based on indirect or circumstantial evidence.

From 2000 until 2009, the Supreme Court of India allowed tangible, complete, and indisputable circumstantial evidence to be used to show guilt under section 498A of the Indian Penal Code. The Supreme Court further emphasised that only blatant acts of cruelty, not all wrongdoing, would be punishable under section 498A of the Indian Penal Code. With each decision, the idea of cruelty received a broader connotation, and it was established that cruelty is a subjective matter that can only be determined for each case that comes before the Court. Meanwhile, the Court, acknowledging the significance of indirect evidence, established specific standards that such evidence must meet in order to be utilised to prove the prosecution's case. The Supreme Court also highlighted a small but essential distinction between sections 304B and 498A of the Indian Penal Code, indicating that cruelty under the latter provision includes behaviour that occurred in the past. As the number of cases based only on deathbed statements has increased, the Supreme Court has found it appropriate to emphasise the importance of the validity of such declarations. In instances like *Arnesh Kumar v. State of Bihar* (2014) and *Rajesh Sharma v. State of Uttar Pradesh and Others*, extensive rules were established (2017).

The concept of cruelty and the application of section 498A of the Indian Penal Code in contemporary society changed dramatically between 2010 and 2018. There has been an increase in the number of false lawsuits filed to entrap unsuspecting relatives, prompting the Supreme Court to issue rules and warnings to officials dealing with the cases. The Court noted that a number of cases had reached the Court as a result of rash acts of vengeance taken in the heat of the moment without regard for the negative consequences of such actions, and it issued a reminder to subordinate courts to keep this in mind when dealing with cases under section 498A of the Indian Penal Code. As a pre-condition to arrest, a request was made for the creation of Family Welfare Committees to probe instances under section 498A of the Indian Penal Code. Law enforcement authorities were also told to conduct investigations before making any arrests.

CHAPTER- IV
CRITICAL EVALUATION OF
SECTION 498A, INDIAN PENAL CODE

1.Introduction

"Man and woman are equal before the law," since the law does not discriminate between them, yet societal situations contradict this assertion. Only when men and women, like wheels in the same car, move ahead on equal footing will society progress. Many laws have been passed to assist and empower women, but they have yet to profit from them owing to gaps in the implementation apparatus. Women have equal legal standing, but they do not have it socially. Women in India are still exploited. The researcher discussed regulations connected to the idea of "cruelty" in depth in Chapter 2. The scholar has illuminated several aspects of section 498A of the Indian Penal Code, 1860. The researcher also looked at the idea of cruelty in regard to section 498-A of the Indian Penal Code in various Indian statutes and supplemental laws. To build a chronology of events, the researcher examined the voyage of women in India across time, finding that during the Vedic era, which is commonly considered to be the magnificent period of human civilization, women had equal status to their counterparts. Women were educated, took part in politics, picked their own life partners, and had a great deal of autonomy. There was no such thing as dowry. During this time, no occurrences of violence against women were reported.

Many social infirmities emerged in Indian society with the arrival of the post-Vedic or mediaeval period. Many foreign invasions occurred during this time period. As a result of the invaders' onslaught, societal abuses against women such as child marriage, the sati system, and other such practises took root in the country's soil. Women's standing declined with time.

Women's conditions worsened much further during British administration. Various laws were passed to improve the position of women and to eliminate social problems, but they all failed and were just on paper. Indian society has a rich cultural heritage, despite the fact that it is continually evolving. We live in the digital era, and family life is not looking well. Discrimination between men and women is on the rise, yet many women are achieving economic security and are becoming policymakers not just in their homes but also in government sectors. Women now have the same standing as males. The dominance of material culture in modern society may be seen in marriage relationships. In our culture, dowry has become a curse. The number of dowry deaths is on the rise. The Indian ladies were subjected to a great deal of misery and abuse.

The number of dowry fatalities increased after independence, notably in the 1980s. Women were subjected to harsh treatment by their husbands and in laws, prompting the legislature to pass legislation to address this social evil and make it a criminal offence. The Amendment Act of 1983 incorporates Section 498A of the Indian Penal Code, 1860, titled "Spouse or relative of husband of a woman subjecting her to cruelty," which deals only with cruelty perpetrated by a woman's husband and his family.

Women were subjected to much too much suffering at the hands of their husbands and in-laws. Marriage, which was formerly seen as the joining of two souls and two families, is today viewed as a commercial relationship. It was a business relationship. Certain laws were deemed necessary to assist women in accessing justice.

2. Section 498A Critical Evaluation of Evidence and Nature of Offense:

The researcher believes that studying the associated features of evidence and the nature of the crime within the provisions mandated by the Indian Penal Code is essential for a thorough examination of the idea of cruelty.

A. Section 498 A Critical Evaluation of Evidence

The Supreme Court has often highlighted the necessity of evidence in proving a case under Indian Penal Code section 498A. The superiority of direct evidence over indirect evidence has been repeatedly stated by the courts. A conviction based only on circumstantial evidence must be solid and convincing.

In addition, the value of a deathbed statement as evidence under the clause has been emphasised throughout time. The courts have evolved from a strict approach to recording such statements, requiring that the statement be recorded by an authorised officer and accompanied by a certificate of fitness from a medical practitioner, to a more liberal approach, allowing statements properly recorded by other individuals to be admitted as evidence on the fitness of the maker's state of mind.

The Court correctly observed that a conviction based only on a deathbed statement requires substantial proof of its validity. When determining the authenticity of a dying declaration, several factors come into play, including the time of the incident, the time of recording the statement, the person recording the statement, the maker's state of mind, the contents of the statement, the circumstances in which the statement was recorded, and so on.

The Court's liberal and practical approach has progressed to the point where it has accepted a dying declaration recorded by someone who was neither an authorised person nor a doctor where the person testified that he was satisfied with the victim's state of mind while making the statement.¹⁶⁰

Section 498A: Nature of the Offence

The crime is punished by up to three years in jail and a fine. The crime is:

- Cognizable-

¹⁶⁰ State of Karnataka v. Govindappa and Others (2010)6 SCC 533
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The police officer may arrest the suspected offender without a warrant for cognizable offences. When crimes are serious in character, they are classified as cognizable.

Section 498A has been classified as a cognizable crime because of its seriousness, as well as to protect the victims from additional suffering and to prevent the suspected accused from fleeing.

- Non-bailable-

According to the Indian Penal Code, the crime is non-bailable, which means that the accused does not have the right to bail and that its approval is uncommon and at the discretion of the courts.

- Non-compoundable-

Because the offence is non-compoundable, courts are unable to recognise concessions reached between the opposing parties. However, due to the nature of the offence, which, unlike other horrific crimes, would not have major societal implications, the High Court has been given the discretion to dismiss any such allegation on the basis of a genuine and voluntary compromise entered into under section 482 of the Cr. P.C. To summarise, the complainant is unable to retract the complaint.

She may file a case based on a settlement she reached with the other party, but the High Court can dismiss the lawsuit based on the agreement.

In *Manohar Singh v. State of Madhya Pradesh*¹⁶¹, the Court held that an order of conviction could not be annulled even if the parties reached an agreement, but the Court remitted the punishment since the agreement was genuine.

3. Constitutional validity of section 498A of Indian Penal Code:

Section 498A is being challenged on the grounds that it discriminates between a husband and his family and a woman and her relatives, allowing only the former to be penalised for cruelty in a marital environment.

¹⁶¹ SCC 75, 242 (2014)

The constitutional validity of the section was challenged before the Delhi High Court in *Inder Raj Mallik v. Mrs. Sunita Mallik*¹⁶², on the grounds that it violated Articles 14 and 20(2) of the Constitution by granting capricious power to courts and the police, despite the definition of the term cruelty appended to the section being ambiguous and the section constitution constituting double jeopardy because a similar penalising provision was available under Dowry Proh. The provision is not unconstitutional, according to the court, and is legal for the following reasons:

Courts' competence to interpret legal requirements does not amount to "arbitrary powers." If the Court's interpretation authority is questioned as arbitrariness, various legal provisions will have to be deemed unconstitutional or extra vires, since the definition of cruelty is plain and unequivocal. As a result, the argument that the police and courts have unlimited authority is without merit.

When dealing with the claim that the section violated Article 20(2), the Court found that the challenged provision could be distinguished from the Dowry Prohibition Act (section 4) provision since the latter dealt with a different issue.

a more severe version of the crime It punishes the act of cruelty that is punished under section 4 of the Dowry Prohibition Act, and so would not be a violation of Article 20. (2).

The Supreme Court held in *Krishna Lal v. Union of India*¹⁶³ that section 498A of the Indian Penal Code is legally legitimate. The Court went on to say that only unjust discrimination violates equality, and that the section's provision equates to reasonable categorization due to the nature of the offence, which is limited to the hearth and home, making evidence production impossible or exceedingly difficult. As a result, the Court determined that the provision did not contradict Article 14 of the Constitution.

¹⁶² CrLJ 1510, 1986 (Del)

¹⁶³ 1995 CrLJ(P&H)

In *Sushil Kumar Sharma v. Union of India and Ors*¹⁶⁴, the Court was asked to declare section 498A of the IPC unconstitutional because there was a real risk of it being used to harass unwitting people through false allegations and to punish those who made them in order to discourage people from making false allegations. While upholding the provision, the Court said that the Apex Court's mandate has always been clear in such a case, that the mere prospect of a law provision being misused does not automatically call for its designation as unconstitutional. Though the Court easily accepted the petitioner's argument, it also pointed out that the job of ensuring that those who use the provision for malicious purposes be penalised lies within the legislative domain. The court also cautioned judges to treat cases brought under the clause with care until the legislature creates proper provisions to address the nuisance of fake cases. The court further pointed out that the statutory presumption under section 113A of the Indian Evidence Act may be rebutted, and that the court's and other authorities' job in such circumstances is to ensure that the innocent are not harmed. The Court further said that where only indirect evidence is available, the rule governing indirect evidence shall be followed.

4. Evaluation of guidelines given by Supreme Court in major landmark cases:

Prior to specific directions being given in the year 2005 and subsequent years with regard to section 498A and its aspects such as arrest specifically, the Supreme Court had laid down general guidelines with regard to arrest in cases such as *Joginder Kumar v. State of U.P. and Ors.*¹⁶⁵, *D.K Basu v. State of West Bengal*¹⁶⁶, *Nilabati Behera v. State of Orissa and Ors.*¹⁶⁷, *State of M.P. v. Shyamsunder*¹⁶⁸ The following examples show the rights of those who have been arrested:

¹⁶⁴ Supra note at 125.

¹⁶⁵ AIR 1349, 1994

¹⁶⁶ 1 SCC 416, 247 (1997).

¹⁶⁷ SC 1960 248 AIR 1993

¹⁶⁸ 217 of 1993 Appeal (crl.) 249

1. At the moment of arrest, officers must have or carry valid and visible identification.
2. The cause for the arrest shall be disclosed to the apprehended individual.
3. A police note comprising details such as the location of the arrest and the circumstances of the arrest, which must be signed by at least one witness (a relative of the person detained or a respected member of the community) and have the signature of the person arrested.
4. At his request, a documentation detailing all injuries sustained by the individual arrested shall be created. It should be signed by both the officers who made the arrest and the individual who was arrested.
5. The right to have his family and friends notified of his arrest.
6. Police are required to keep a record of the arrest notification to friends and family.
7. The arrested individual should be allowed to meet with an attorney.
8. The detained person's rights should be explained to him by the police officer.
9. Every 48 hours, the arrestee should have a medical checkup.
10. All records pertaining to the arrest should be reported to the local magistrate.
11. The "Police Control Room" will receive all necessary case details from the officers who made the arrest, and these data will be posted in a public location on the grounds.
12. In marital cases, a preliminary investigation will be performed to determine whether a cognizable crime has been committed.

The Court emphasised that, wherever practicable and appropriate to the circumstances of a given instance, no arrest should be made since it harms the reputation of the person detained. The court also ordered the police to strike a balance between law enforcement and individual rights protection.

Following these instances, the Court began issuing recommendations that eased aspects of section 498A of the Indian Penal Code. The Court revised the previous rules to better meet the needs of the specific section. The following are some examples and guidelines:

In *Sushil Kumar Sharma v. Union of India and Ors*¹⁶⁹, the Court was asked to declare section 498A of the IPC unconstitutional because there was a real risk of it being used to harass unwitting people through false allegations and to punish those who made them in order to discourage people from making false allegations. While upholding the provision, the Court said that the Apex Court's mandate has always been clear in such a case, that the mere prospect of a law provision being misused does not automatically call for its designation as unconstitutional. Though the Court easily accepted the petitioner's argument, it also pointed out that the job of ensuring that those who use the provision for malicious purposes be penalised lies within the legislative domain. The court also cautioned judges to treat cases brought under the clause with care until the legislature creates proper provisions to address the nuisance of fake cases. The court further pointed out that the statutory presumption under section 113B of the Indian Evidence Act may be rebutted, and that the court's and other authorities' job in such circumstances is to ensure that the innocent are not harmed. The Court further said that where only indirect evidence is available, the rule governing indirect evidence shall be followed.

In *Arnesh Kumar v. State of Bihar*¹⁷⁰, the Court noted that the danger or potential of being arrested is one that is generally dreaded in Indian culture. Embarrassment, humiliation, and anxiety accompany the reality of arrest. Furthermore, it was emphasised that police officers who employ the power of arrest disregard the Court's frequent cautions against the arbitrary use of this authority and exploit it to extort money from arrestees.

The Court focused its attention on section 41A of the Code of Criminal Procedure, which allows a police officer to investigate the substance of the complaint/information/suspicion as described in section 41(1) and then decide whether or not to initiate an arrest. If the officer believes that no arrest is necessary, he will issue a notice instructing the individual who has been charged to come before

¹⁶⁹ Supra note at 125.

¹⁷⁰ Supra note at 67.

him at a specified time and place. As long as these requirements are followed, the individual will not be detained unless the police officer believes it is essential.

The court further said that, upon the appearance of the accused before the Magistrate, the prolongation of detention without regard for the facts of the case or as a routine practise is a practise that severely restricts the rights of such accused. The ability to extend detention is a highly important and responsibility-laden one that requires careful deliberation, but in the current situation, the authorisation is granted casually without concern for the implications. Before approving additional detention, the Magistrate must record his own satisfaction, which means he must research and check all elements of the arrest and come to an educated judgement about the necessity for such detention. The Magistrate's decision to authorise detention should be based on his own knowledge and application of mind, not on the police officer's dictation or rationale, but simply on the facts and other pertinent circumstances. Following a lengthy discussion of these issues, the Court set guidelines to ensure that arrests under section 498A of the Indian Penal Code are not arbitrary or fantastical, which included the following requirements:

- State governments should teach police personnel to assess the substance of the case and then decide whether or not to make an arrest after finding that all grounds for detention are met.
- Section 41(1)(b) requires that a list of required circumstances be made accessible to all police officers (ii).
- When the prisoner is brought before the magistrate, the police officer must provide the completed list to him together with the material or grounds on which he based his decision to make an arrest.
- The Magistrate will evaluate the above-mentioned facts and will only sanction the prolongation of custody if he comes to a favourable judgement.
- The Magistrate is legally accountable for departmental action if he approves detention without noting reasons.

- If a police officer decides not to arrest the accused, a copy of the case must be given to the Magistrate within a certain amount of time.
- The accused must get notice under section 41A of the Code of Criminal Procedure within a certain amount of time.
- Failure to obey these instructions might result in departmental action or perhaps contempt of court charges before the relevant High Court with jurisdiction.

In *Rajesh Sharma and Ors. v. State of U.P. and Ors.*¹⁷¹, the Court was confronted with the serious problem of unwitting relatives being drawn into marriage conflicts. It was argued that there was a rapidly growing trend of using section 498A to settle scores and seek vengeance. This tendency, it was said, was negating the purpose of implementing the clause. To prove the case, the National Crime Records Bureau supplied information showing that the number of cases filed under the provision was increasing, but that the percentage of conviction was also decreasing. The Court went on to highlight two areas of concern that needed to be addressed:

1. Unjustified blame of the spouse and his family for no reason, which would lead to their imprisonment, i.e. arrest.
2. Adversity incurred by the parties as a result of the continuance of proceedings notwithstanding a settlement of the issue outside of court, owing to the non-compoundability of the offence.

Following such identification, the following instructions were given:

(Cases involving bodily injury or death are not covered by these guidelines.)

In each district, "Family Welfare Committees" (one or more) were to be formed out of specific recognised groups of persons like as social workers, paralegal volunteers, and others, and such members were not to be summoned as witnesses. These individuals will get training and be compensated for their contributions.

On referral by the Magistrate or the police, every complaint under the provision should be considered by the Committee, and a report should be produced by the Committee within a certain period and given to whomever made the reference.

¹⁷¹ supra note 208.

Detention by arrest will be postponed until the Committee submits its findings. After the report is filed, it will be reviewed by a designated authority who will be trained for a certain period of time on the merits of the report.

If the parties reach an agreement outside of the Court, the district court has the authority to dismiss the matter.

When the wife or child's rights, including maintenance, are protected, mere ownership of dowry by the husband or his family cannot be a viable cause for rejection of bail. Factors like as the person's involvement, the possibility of the charges being true, the necessity for incarceration, and the ability to provide genuine justice must all be considered while deciding on a bail application.

Taking passports away or issuing international arrest warrants should be uncommon.

The District level judge has the discretionary jurisdiction to consider all cases related to the same marriage issue together in order to gain a complete picture.

In appropriate circumstances, personal appearance should be avoided, and video conferencing should be encouraged.

Since 2005, the Supreme Court has consistently stated that there is a significant risk of the clause being exploited and has issued directions to avoid it. It has steadfastly upheld the section's constitutional legitimacy and added additional or extra measures to improve its use and reduce the risk of abuse. The Court went on to develop regulations for the formation of separate committees to investigate claims under the clause in Rajesh Sharma's case in 2017. These recommendations were later updated in 2018, when it was determined that the court had overstepped its bounds into legislative territory.

Union of India v. Social Action Forum for the Manav Adhikar and Others,¹⁷²The court believes that there are legislative measures linked to any sensitive social concerns that provide victims with a sense of security. When there are more cases of abuse, the court should take the appropriate actions to prevent it. The court's goal is to provide justice to people who have been victims of social injustice. The court also

¹⁷² supra note 211.

believes that law enforcement apparatus plays an essential role. If such machinery fails, it may result in societal catastrophes, necessitating greater protective legislation from the government in order to eliminate social problems. The decision in *Rajesh Sharma and others v. State of Uttar Pradesh and others*¹⁷³ was revisited and changed in this case.

The following guidelines have been issued by the Court:

1. The Indian Penal Code prohibits the formation of a "Family Welfare Committee." The Penal Code makes no provision for the formation of a committee or the inclusion of instructions for its operation
2. The court ordered the investigating authorities to arrest the individuals in accordance with the circumstances set out in section 41A, as guided by precedent.
3. The Court further noted that the dispute cannot be settled by a District and Session Judge or a Senior Judicial Officer. Only the High Court has the authority to dismiss charges brought under section 498A of the Indian Penal Code.
4. The investigator should be prepared to deal with such situations.

In this instance, the Court also noted that the spirit of the provision had been lost as a result of court orders in several cases. The section's goal and goal was to assist women in seeking justice for arbitrary conduct by their husbands and his family. The problem of abuse, although significant, has been overblown, leading to the section's dilution by the courts in various situations. The issue is whether

5. Conclusion:

The components of section 498A of the Indian Penal Code, 1860, have been thoroughly reviewed by the researcher in order to determine the provision's meaning and application. After a thorough examination of the clause, it became obvious that cruelty is a subjective word that is dependent on a number of criteria that the courts must consider when interpreting it. A single act of cruelty may be prosecuted under numerous parts of the Indian Penal Code, including Sections 304B, 306, and 498A.

¹⁷³ Supra note At 208

As a result, the phrase cruelty is associated with mischief. The researcher has also looked at the laws that are related to the area.

The low conviction rate cannot be attributed only to women bringing false allegations. We may also conclude that women are denied justice. Women file appeals at a lower rate than males, which may be ascribed to educational and economic disadvantages. The insufficiency of evidence due to the nature of the offence may also be blamed for the lower conviction rate. Due to the lengthy Court processes and patriarchal makeup of society, women are also pressured to drop their cases.

The researcher sought to illustrate the ratios between cases pending, disposed, withdrawn, cases in which an order of conviction or acquittal was issued, and the comparative rate of conviction under section 498A and other offences under the Indian Penal Code using graphical representations. The Supreme Court and several High Court judgements were studied and analysed by the researcher. In the instance of Armesh Kumar, the researcher found that the judges had said that it is because the section is cognizable and women use it as a weapon against males rather than to defend themselves since it is not bailable. The Court further said that the police utilise this law arbitrarily to frighten the arrestee and make monetary demands. As a result, the Court has ordered police officers to obey section 41 A of the Code of Criminal Procedure while making an arrest.

To bring the crime home, the researcher looked at the kind of proof as needed under section 498A of the Indian Penal Code. She has also assessed the nature of the offence as defined by the provision. The researcher has also conducted a thorough examination of the Supreme Court's rules on the subject. The researcher has also sought to prove the constitutional legitimacy of the clause by studying Supreme Court and High Court decisions.

To sum up, the researcher examined section 498A of the Indian Penal Code and all of its relevant features attentively.

CHAPTER 5

CONCLUSION AND SUGGESSTION

1. Conclusion:

After studying cruelty to women in relation to section 498A of the Indian Penal Code, the researcher comes to the following conclusion. The Court and the Legislature have done their best to interpret and introduce numerous laws to meet the welfare state's changing needs. Though law is a powerful tool for bringing about necessary social changes, we see in India that customs and traditions have always played and continue to play a significant role in the social structure. When laws are first enacted, they are free of loopholes. Loopholes and a lack of complete legal effectiveness arise as a result of changing society. Everything in our society is subject to change. Time is a crucial factor in bringing about societal changes. As society evolves, so must the law, or the law's inherent negative aspects will be exploited, resulting in injustice. Every concept has both positive and negative aspects, as is well known. Parallely, when a new law is introduced, it thrives in the contemporaneous society by catering to the needs of the society. This is the positive impact or aspect of the law. The law continues to serve the society but reaches a point of stagnation when the society changes. The law then becomes redundant and cannot effectively serve the society. It is at this point in time when the law, as a concept, is said to fall victim to its negative side or characteristics. It also becomes subject to overuse or misuse. At such a moment, the attention should be on refining and controlling the law so as to guarantee that it satisfies the demand of the transformed society. One of the most warped views of our culture is that legislation, from its conception, should give remedies to all the issues that develop in a society at any point of time. Section 498A of Indian Penal Code, was created to guarantee justice to women who were very much in need of it. Women's rights improved gradually, but it has been observed that this noble provision is now being used to settle scores or exact revenge. In light of this, the researcher

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believes that the time has come to make changes to the existing legislation. Section 498A of the Indian Penal Code has reached its climax and maturity, and we have made the necessary changes to suit current social conditions.

The system of dowry is deep rooted in Indian culture there should be relevant steps to eradicate this social evils. It's not that the government has done nothing.

Educating girl children, prohibiting female infanticide, awareness programmes, introducing various legal provisions to safeguard the interests of women, and so on are all measures to combat this threat, but the implementation machinery has proven ineffective. People have no fear of the law, and they demand dowry openly. Law cannot intervene in this case; it has its own limitations.

According to the researcher, the provision in question only recognises cruelty as a criminal offence when it is committed against women, making it a gender-specific law. The researcher wants to emphasise that in fact, both men and women may and are susceptible to brutality. By establishing consistent legislation against cruelty, the international arena accepts the concept's gender neutrality. There are numerous cases in India where a husband claims that he is being subjected to cruelty by his wife and her relatives, but there is no provision in criminal law that punishes this behaviour, such as section 498-A of the Indian Penal Code. Cruelty has only been given the status of being a gender neutral concept in personal marriage and divorce laws. Law was created to meet the needs of society, but in the current situation, it has failed to meet those needs or to address the grievances of men who have been subjected to cruelty. According to the researcher, it is past time for criminal law reform to include a non-gender specific uniform law that will punish any act of cruelty regardless of the victim or perpetrator.

Anyone who is unkind to another human being must be punished. Men can be cruel to women, and women can be cruel to men, but both are inhumane acts. Cruelty may be inflicted in order to obtain valuable security, to establish dominance over others, or for any other reason. Though the law is responsible for prohibiting such acts of cruelty, it is also the people's responsibility to change their behaviour. Human

civilization has changed dramatically and prospered, but these changes have occurred in the technological field, which is widely accepted. Along with technological advancements, if people incorporate human values, the human race will be enhanced and people will respect one another.

Section 498A of the Indian Penal Code was enacted to protect women from cruelty by their husbands and relatives, but in today's society, this is no longer the case.

It has been noticed that men are also victims of female cruelty. The researcher therefore feels fit to suggest transformative legislation suited to the needs of the current society.

“Matrimonial cruelty arises from matrimonial ties wherein the act of one spouse or his/her relatives which would amount to injustice to the other spouse.”

OR

“When a human being inflicts cruelty on another human being has to be penalized. Men can be cruel to women, and women can be cruel to men, but both are inhumane acts. The cruelty inflicted can be for demand of valuable security, to establish supremacy over other or for any other reasons.”

All laws are framed to redress and prevent injustice. Under matrimonial injustice, recognition was granted only to cruelty inflicted on women which was attributed to the chauvinistic nature of the society. But the movement of the society has been such that cruelty is no longer confined to gender specific roles. Therefore, the researcher feels that both men and women are entitled to protection against such injustice in matrimonial ties.

1) There should be punishment for women- At any point of time during the trial, the Court is of the opinion that the allegation is vexatious or mala-fide, the Court can impose an imprisonment for term up to 6 months or fine or both.

2) Mandatory counselling of the parties after receipt of complaint prior to arrest.

What was originally introduced as an aid is now dubbing as a weapon for retribution thereby defeating its very purpose.

The law enforcement machinery has to undergo changes. Many a times the police are ignorant of law and charge the person without verifying it. Sometimes they ignore the cases where special safeguard is needed. Harassment against women is non-bailable and non-cognizable offence, it is so made so that women can be protected from matrimonial evils. Whether the complaint made by her against the in-laws is factual or fake can be justified later on. The police too after proper interrogation don't have to rope in those relatives who are out-stationed, infant, and old or bed ridden.

When a small child is held responsible for cruelty, it is obviously a far fetch reality and accordingly the police can verify the authenticity of the statement of the victim. The police officer at every police station should be trained in law and its implementation or law graduate should be appointed to apply appropriate sections of law and enter it in their diary accordingly.

The lawyers on the other hand are also responsible to misguide their client to create such an atmosphere that would lead the husband and his relatives to be responsible the act which they have not done it. There are some cases where cruelty is inflicted but the lawyer is unable find evidence to prove it. Women who really need protection of law are deprived of it.

The politicians on the other hand help the person without screening the truth; many a times the culprit is set free due such intervention. Few women under the influence set their house on fire to create a sensation that would help them to influence the public to their side. Though there are instances of misuse of the section at the same time there are many women who await justice; they are the one who are ignorant of law and its procedure, there are few others who knock the door of the court but fail to prove the cruelty inflicted upon them. The section cannot be unconstitutional only because it is being misuse by few, but it is for those who face injustice.

Society has developed economically and technologically, the rate of change is drastic in nature. Men and women are equal before law, they are free to choose their education stream, professional career and their life partner; in spite of this

matrimonial relations are not in working conditions. The standard of living of people has increased due to technological development in society. At the same time the material development created gap between human relations; all relations are measured in terms of money. Human relations are not benefitted by the material growth; the introduction of social legislation to solve social problems shows the existence of conflicts between individuals at different sphere of life. Family is the basic social unit; the kinds of relations that exist in family give the clue to social relations. The development in society has led to various changes in family creating a new form of family adding to multiplying family problems of which demand of dowry is one of it. The multiplied family problem may lead to the downfall of human civilization. A time has come to have a serious relook to present problem by finding proper solution to solve it; dowry death, cruelty are few of them.

To have a better family relations, marriages should be properly arranged. Marriages arranged hastily and immaturely led to family disorder. Most marriages today are arranged by the individuals themselves without consulting the elders; individual should have liberty of choosing their mates but ad wise from elders may prove helpful. Few men give absolute rights of choosing their mates to their elders; this may also prove unhealthy for the maintenance of matrimonial relations. There should be pre-marriage counselling compulsory for all couples making them understand that they are partners of life and are going to lead emotionally healthy life a so the demand of valuable articles from the spouse should not arise. If the parents demand dowry; both the couple should prohibit them together.

We are all aware that women's positions have not altered to the extent that was predicted. Men's patriarchal attitudes regarding women have remained unchanged. Even now, she is seen as a second-class citizen. While it is true that few women abuse the provision to punish their in-laws and husbands, it is equally true that many women continue to face domestic issues. We may consider enacting a universal law against cruelty that could be used by anybody — men or women – to seek justice.

Following the instances from 1987 to 1990, it is respectfully urged that, due to its immaturity, the Hon'ble Supreme Court approached the idea of cruelty under section 498A of the Indian Penal Code with caution. The Supreme Court looked at sections 304B and 498A of the IPC and determined that they are not mutually exclusive. This implies that both portions are similar in nature, have common qualities, and may occur simultaneously. Both portions work well together and complement one another. The Court further emphasised the significance of direct evidence (which does not need any assumption) in showing guilt under section 498A of the Indian Penal Code, as opposed to circumstantial evidence (which requires sufficient grounds to assess).

During a ten-year period (1991-1999), the Hon'ble Supreme Court recognised the strong and irrefutable link between sections 498A and 304B of the Indian Penal Code, and hence made lengthy remarks on the importance and legitimacy of deathbed statements while dealing with matters under those sections. The court further noted that an acquittal under section 304B of the Indian Penal Code does not automatically result in an acquittal under section 498A; the charge would still remain even if the guilt under section 304B is not proven. During the same decade, the court also instructed attorneys to use caution when dealing with situations under the provision. The Supreme Court also recognised the hazardous nature of Indian Penal Code section 498A, which might be used to entrap unwary relatives of the husband, and increased the proof requirements for proving guilt under the provision. While considering the deathbed statement as the main evidence to determine guilt and acquit the prisoner, the court took further precautions. The Supreme Court issued a warning that subordinate courts should bear in mind when determining guilt based on indirect or circumstantial evidence. The Supreme Court has emphasised the need of direct and tangible evidence imputing cruelty to show guilt under section 498A of the Indian Penal Code; otherwise, the accused would be free and released from the allegation.¹⁷⁴

From 2000 until 2009, the Supreme Court of India allowed tangible, complete, and indisputable circumstantial evidence to be used to show guilt under section 498A of

¹⁷⁴ AIR 1998 SC 774, Meka Ramaswamy v Dasari Mohan and Ors.
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the Indian Penal Code. The Supreme Court further emphasised that only blatant acts of cruelty, not all wrongdoing, would be punishable under section 498A of the Indian Penal Code. With each decision, the idea of cruelty received a broader connotation, and it was established that cruelty is a subjective matter that can only be determined for each case that comes before the Court. Thus, in this decade, the court placed a greater emphasis on gathering evidence based on the nature of the case rather than using direct or indirect evidence to show guilt. Meanwhile, the Court, acknowledging the significance of indirect evidence, established specific standards that such evidence must meet in order to be utilised to prove the prosecution's case. The Supreme Court also highlighted a minor but significant distinction between the two cases.

While sections 304B and 498A of the Indian Penal Code state that cruelty includes behaviour that occurred in the past, the latter provision also states that it includes conduct that occurred in the future. As the number of cases based only on deathbed statements has increased, the Supreme Court has found it appropriate to emphasise the importance of the validity of such declarations. In the next decade, lawsuits such as *Arnesh Kumar v. State of Bihar* (2014) and *Rajesh Sharma v. State of U.P. and Others* (2017) established extensive rules.

The idea of cruelty and the implementation of section 498A of the Indian Penal Code in contemporary culture changed dramatically between 2010 and 2018. There has been an increase in the number of lighter lawsuits filed to entice unwary relatives, prompting the Supreme Court to give rules and warnings to authorities dealing with the cases. The Court noted that a number of cases had reached the Court as a result of rash acts of vengeance taken in the heat of the moment without regard for the negative consequences of such actions, and it issued a reminder to subordinate courts to keep this in mind when dealing with cases under section 498A of the Indian Penal Code. As a pre-condition to arrest, a request was made for the creation of Family Welfare Committees to probe instances under section 498A of the Indian Penal Code. Law enforcement authorities were also told to conduct investigations before making any arrests.

The components of section 498A of the Indian Penal Code, 1860, have been thoroughly reviewed by the researcher in order to determine the provision's meaning and application. After a thorough examination of the clause, it became obvious that cruelty is a subjective word that is dependent on a number of criteria that the courts must consider when interpreting it. A single act of cruelty may be prosecuted under numerous parts of the Indian Penal Code, including Sections 304B, 306, and 498A. As a result, the phrase cruelty is associated with mischief. The researcher has also looked into the laws that are related to the section.

The low conviction rate cannot be attributed only to women bringing false allegations. We may also conclude that women are denied justice. Women file appeals at a lower rate than males, which may be ascribed to educational and economic disadvantages. Conviction rates are also decreasing.

Due to the nature of the offence, the insufficiency of proof was blamed. Due to the lengthy Court processes and patriarchal makeup of society, women are also pressured to drop their cases.

The researcher sought to illustrate the ratios between cases pending, disposed, withdrawn, cases in which an order of conviction or acquittal was issued, and the comparative rate of conviction under section 498A and other offences under the Indian Penal Code using graphical representations.

The Supreme Court and several High Court judgements were studied and analysed by the researcher. The judges in the Arnesh Kumar case argued that because the section is cognizable and non-bailable, women use it as a weapon against men rather than to protect themselves, according to the researcher. The Court also stated that the police use this provision arbitrarily to threaten the arrestee and make monetary demands. As a result, the Court has ordered police officers to follow section 41 A of the Code of Criminal Procedure when making an arrest.

To bring the offence home, the researcher looked into the nature of evidence as required by section 498A of the Indian Penal Code. She has also assessed the nature of the offence as defined by the section. The researcher has also conducted a thorough

examination of the Supreme Court's guidelines on the subject. The researcher has also attempted to establish the constitutional validity of the section by studying Supreme Court and High Court decisions.

The Supreme Court time and again has given various guidelines under section 498A of Indian Penal Code. The guidelines commence with the issue of arrest. Prior to specific directions being given in the year 2005 and subsequent years with regard to section 498A and its aspects such as arrest specifically, the Supreme Court had in cases like *Joginder Kumar v. State of U.P. and Ors.*¹⁷⁵, *D.K Basu v. State of West Bengal*¹⁷⁶, *Nilabati Behera v. State of Orissa and Ors.*¹⁷⁷, *State of M.P. v. Shyamsunder Trivedi and Ors*¹⁷⁸., as well as *Lalita Kumari v. Govt. of U.P. and Others.*¹⁷⁹, established basic standards for arrest. The following examples show the rights of those who have been arrested:

1. At the moment of arrest, officers must have or carry valid and visible identification.
2. The cause for the arrest shall be disclosed to the apprehended individual.
3. A police note comprising details such as the location of the arrest and the circumstances of the arrest, which must be signed by at least one witness (a relative of the person detained or a respected member of the community) and have the signature of the person arrested.
4. At his request, a documentation detailing all injuries sustained by the individual arrested shall be created. It should be signed by both the officers who made the arrest and the individual who was arrested.
5. The right to have his family and friends notified of his arrest.
6. Police are required to keep a record of the arrest notification to friends and family.
7. The arrested individual should be allowed to meet with an attorney.
8. The detained person's rights should be explained to him by the police officer.

¹⁷⁵ AIR 1349, 1994

¹⁷⁶ 1 SCC 416, 259 (1997).

¹⁷⁷ SC 1960 260 AIR 1993

¹⁷⁸ Appeal 217 of 1993 (crl.)

¹⁷⁹ 2 SCC 1, 262 (2014)

9. Every 48 hours, the arrestee should have a medical checkup.
10. All records pertaining to the arrest should be reported to the local magistrate.
11. The "Police Control Room" will receive all necessary case details from the officers who made the arrest, and these data will be posted in a public location on the grounds.
12. In marital cases, a preliminary investigation will be performed to determine whether a cognizable crime has been committed.

The Court emphasised that, wherever practicable and appropriate to the circumstances of a given instance, no arrest should be made since it harms the reputation of the person detained. The court also ordered the police to strike a balance between law enforcement and individual rights protection. Following all of these instances, the Court in following cases

Cases began to emerge that simplified aspects of Indian Penal Code section 498A. The Court revised the previous rules to better meet the needs of the specific section. The following are some examples and guidelines:

Sushil Kumar Sharma v. Union of India and Ors¹⁸⁰ Guidelines (2005)

The allegation that section 498A of the Indian penal code was misused was brought before the court in 2005, and prayers were made to the court to declare section 498A of the IPC unconstitutional because there was a very real risk of the provision being used to harass unwitting persons through false allegations, and to punish those who made such allegations in order to discourage people from making false allegations. While upholding the provision, the Court said that the mere potential of a law provision being misused does not automatically warrant its classification as unconstitutional. In this instance, the court explicitly said that it does not have the authority to alter or change any legislation based on public opinion. It is the constitutionally authorised authority of the legislature. The court also cautioned courts to treat cases brought under the clause with caution until the legislature creates proper provisions to address the nuisance of fake cases.

¹⁸⁰ Supra note at 125

The court further pointed out that the statutory presumption under section 113B of the Indian Evidence Act may be rebutted, and that the court's and other authorities' job in such circumstances is to ensure that the innocent are not harmed. The Court further said that where only indirect evidence is available, the rule governing indirect evidence shall be followed. Although the court recognised the abuse in this instance, it noted that it would operate within the existing legal framework until the legislature makes the necessary modifications to meet the current situation. The court further emphasised that it is not a weapon held by women to combat males, but rather a shield to protect them from inhumane treatment. The court also dismissed the argument that the part is unconstitutional. Because India is a democratic, socialist country, the government works to improve the poor so that they may integrate into society. Women belong to the disadvantaged group, and the law must protect them from social and domestic abuse. The court correctly addressed domestic violence against women and highlighted the courts' and legislature's respective jurisdictions.

*Arnesh Kumar v. State of Bihar Guidelines (2014)*¹⁸¹

The problem of unfounded claims resulting in harassment of the spouse and his family was brought before the Court in this instance. The Court said that the threat or possibility of arrest is one of the most dreaded events in Indian culture. Embarrassment, humiliation, and anxiety accompany the reality of arrest. It was also emphasised that police officers who utilise the power of arrest disregard the Court's frequent cautions against the arbitrary use of this authority and use it to extort money from those who are arrested. In this instance, the court emphasised the principles pertaining to the person's arrest, which were previously ordered under Section 41A of the Code of Criminal Procedure.

The police officer may investigate the nature of the complaint/information/suspicion as described in section 41(1) of the Code of Criminal Procedure before deciding whether or not to initiate an arrest. If the officer believes that no arrest is necessary, he will issue a notice instructing the individual who has been charged to come before

¹⁸¹ (2014) 8 SCC 273.

him at a specified time and place. As long as these requirements are followed, the individual will not be detained unless the police officer believes it is essential.

The court further said that, upon the appearance of the accused before the Magistrate, the prolongation of detention without regard for the facts of the case or as a routine practise is a practise that severely restricts the rights of such accused. The ability to extend detention is a highly important and responsibility-laden authority that requires careful deliberation, but in the current situation, the permission is provided casually without concern for the implications. Before approving additional detention, the Magistrate must record to his satisfaction, which means he must research and check all elements of the arrest and come to an educated opinion about the necessity for such detention. The Magistrate's decision to authorise detention should be based on his own knowledge and application of mind, not on the police officer's dictation or rationale, but simply on the facts and other pertinent circumstances.

Following a lengthy discussion of these issues, the Court set guidelines to ensure that arrests under section 498A of the Indian Penal Code are not arbitrary or fantastical, which included the following requirements:

- State governments should teach police personnel to assess the substance of the case and then decide whether or not to make an arrest after finding that all grounds for detention are met.
- Section 41(1)(b) requires that a list of required circumstances be made accessible to all police officers (ii).
- When the prisoner is brought before the magistrate, the police officer must provide the completed list to him together with the material or grounds on which he based his decision to make an arrest.
- The Magistrate will evaluate the above-mentioned facts and will only sanction the prolongation of custody if he comes to a favourable judgement.
- The Magistrate is legally accountable for departmental action if he approves detention without noting reasons.

- If a police officer decides not to arrest the accused, a copy of the case must be given to the Magistrate within a certain amount of time.
- The accused must get notice under section 41A of the Code of Criminal Procedure within a certain amount of time.
- Failure to obey these instructions might result in departmental action or perhaps contempt of court charges before the relevant High Court with jurisdiction.

Rajesh Sharma and Ors. v. State of Uttar Pradesh and Ors.¹⁸² (2017)

The Court was asked to consider the problem of innocent relatives being drawn into marriage conflicts in this instance. It was argued that there was a rapidly growing trend of using section 498A to settle scores and seek vengeance. It was also discovered that women are abusing the clause to exert authority over their in-laws. This tendency was working against the fundamental goal of implementing the legislation. To prove the case, the statistics given by the National Crime Records Bureau was used, which said that the number of cases filed under the provision was increasing, but that the percentage of conviction was relatively low. The findings led to the conclusion that the part is being abused by women. On the other side, it's possible that the low conviction rate is due to a lack of evidence to substantiate the husband's and in-laws' culpability. It is very difficult to obtain women's justice in a patriarchal culture.

In this instance, the Court went on to highlight two areas of concern that needed to be addressed:

1. Unjustified blame of the spouse and his family for no reason, which would lead to their imprisonment, i.e. arrest.
2. Adversity incurred by the parties as a result of the continuance of proceedings notwithstanding a settlement of the issue outside of court, owing to the non-compoundability of the offence.

As a result, the court has issued the following orders:

(Cases involving bodily injury or death are not covered by these guidelines.)

¹⁸² supra note 208.

In each district, "Family Welfare Committees" (one or more) were to be formed out of specific recognised groups of persons like as social workers, paralegal volunteers, and others, and such members were not to be summoned as witnesses. These individuals will get training and be compensated for their contributions.

On referral by the Magistrate or the police, every complaint under the provision should be considered by the Committee, and a report should be produced by the Committee within a certain period and given to whomever made the reference.

Detention by arrest will be postponed until the Committee submits its findings. On the basis of its worth, the report will be examined by a designated authority, which will undertake training for a certain period of time.

If the parties reach an agreement outside of the Court, the district court has the authority to dismiss the matter.

When the wife or child's rights, including maintenance, are protected, mere ownership of dowry by the husband or his family cannot be a viable cause for rejection of bail. Factors like as the person's involvement, the possibility of the charges being true, the necessity for incarceration, and the ability to provide genuine justice must all be considered while deciding on a bail application.

Taking passports away or issuing international arrest warrants should be uncommon.

The District level judge has the discretionary jurisdiction to consider all cases related to the same marriage issue together in order to gain a complete picture.

In appropriate circumstances, personal appearance should be avoided, and video conferencing should be encouraged.

Since 2005, the Supreme Court has consistently stated that there is a significant risk of the clause being exploited and has issued directions to avoid it. It has steadfastly upheld the section's constitutional legitimacy and added additional or extra measures to improve its use and reduce the risk of abuse. The Court went on to develop regulations for the formation of separate committees to investigate claims under the clause in Rajesh Sharma's case in 2017. The standards in Rajesh Sharma's case applied to instances when the victim is still alive; however, cases involving bodily

injury or death are not covered by these guidelines. The court ordered a 'Family Welfare Committee' to investigate the allegation and make any arrest recommendations. This goes against the provision that states that an offence is not bailable and that an arrest should be made as soon as a complaint is submitted. The non-bailable character of the charge was intended to safeguard women from additional harassment; nevertheless, inserting the application of bail by committee recommendation with a day's notice completely negates the purpose of the provision. Women live with their in-laws, where all of the other members form a group and she is left alone with no support. If she states that she is alone in this situation, she is lying.

If someone is harassed, the clause allows for instant arrest. It's quite unlikely that her in-laws would step out to support her or tell the truth under these circumstances. After reviewing the committee's decision, the registration of the First Information Report will take a long time, and the women may lose hope of receiving justice. Furthermore, there will be no woman pounding on the door to defend her. As a result, the clause correctly declares the offence to be non-compoundable and non-bailable. This non-bailable aspect of the offence promises a woman that she is protected by law and that she just has to come forward to file a complaint, but in this instance, the court's directive nullified the substance of the provision, making it a sword without a sharp edge. These recommendations were later updated in 2018, when it was determined that the court had overstepped its bounds into legislative territory. Judges have no right to create legislation, according to Jeremy Bentham's utilitarian philosophy, and only the legislature has the authority. Legislation is the most suitable form and structure of law. The sole source of law is the legislature, and such legislation should be codified. He continues his argument by claiming that the sovereign should obey divine law, while the subject should follow codified law. The Indian Penal Code, Section 498A, is a codified legislation designed to protect women from harassment by their in-laws; any amendments should be made by the legislature. According to Jeremy Bentham, the law must be retained in an acceptable form and structure.

Manav Adhikar and Others v. Union of India¹⁸³ Guidelines in Social Action Forum (2018)

In this instance, the court believes that there are legislative measures pertaining to any sensitive social concerns that provide victims with a sense of security. When there are more cases of abuse, the court should take the appropriate actions to prevent it. The court's goal is to provide justice to people who have been victims of social injustice. The court also believes that law enforcement apparatus plays an essential role. If such machinery fails, it may result in societal catastrophes, necessitating greater protective legislation from the government in order to eliminate social problems. In this situation, the Rajesh Sharma decision applies.

The case of and others v. State of Uttar Pradesh and others²⁶⁷ was re-examined and revised.

The following guidelines have been issued by the Court:

1. The Indian Penal Code prohibits the formation of a "Family Welfare Committee." The Penal Code makes no provision for the formation of a committee or the inclusion of instructions for its operation.
2. The court ordered the investigating authorities to arrest the individuals in accordance with the circumstances set out in section 41A, as guided by precedent.
3. The Court further noted that the dispute cannot be settled by a District and Session Judge or a Senior Judicial Officer. Only the High Court has the authority to dismiss charges brought under section 498A of the Indian Penal Code.
4. The investigator should be prepared to deal with such situations.

In this instance, the Court also noted that the spirit of the provision had been lost as a result of court orders in several cases. The section's goal and goal was to assist women in seeking justice for arbitrary conduct by their husbands and his family. The problem of abuse, although significant, has been overblown, leading to the section's dilution by the courts in various situations. The issue is whether males are really suffering at the hands of women or whether they are just crying wolf. The substance

¹⁸³ supra note at 211

of the provision cannot be changed due to a few circumstances that are believed to be abused. Many women who are still denied justice are completely ignored. As shown in Graph No. 3, the number of instances of harassment for lack of dowry is growing, but the conviction rate remains low, owing to a lack of evidence, failure of the implementation machinery, or the patriarchal structure of society. The demand for dowry, which is likewise illegal but widely practised, is the foundation of harassment. The low conviction rate does not indicate that the charges are fake or that women are abusing the provision. Demanding dowry is a customary rule that is observed because it has been followed for a long time, and breaking it is considered a sin. This customary rule has aided in meeting the need for additional money during marriage and at any point following marriage; if a woman refuses to accept money, she is slain, preventing a second marriage.

It could be possible. Even educated individuals practise dowry, making it impossible to remove such a terrible rule on its own; we need societal awareness and additional efforts from women to be financially secure and not marry someone who expects money. The courts should issue orders to prohibit dowry, not to prevent women from abusing the provision. There is no evidence that women have taken use of the provision to exact vengeance on their husbands or in-laws. Many individuals believe that if cruelty is shown as a result of exploiting the provision, the women who file false complaints should face a deterrent penalty. So that those ladies who are having troubles in their marital home would seek justice from the court. The abuse of the provision, if any, is limited to a few women; thus, the majority of women who are subjected to cruelty should not be overlooked, as Bentham properly said, law should promote maximum pleasure to the greatest number of people.

It is necessary to conduct a time-bound inquiry into cases filed under section 498A of the Indian Penal Code in order to bring justice to the victims, since "justice delayed is justice denied."

The idea of mental cruelty must be amended in the definition of cruelty since it is loosely stated in the Act, leaving room for abuse of the provision. The dishonest

investigating officer should be punished for failing to thoroughly investigate the case of cruelty under section 498A before presenting it to the court. It is the police officer's responsibility to investigate the case objectively, fairly, and without prejudice, using adequate evidence to support the case; failing to do so should result in a punishment. Some argue that section 498A of the Indian Penal Code should cover males as well as women. Not all men are cruel, and not all women are insane. As a result, the law should punish the offenders without regard to their gender. Women even attempt suicide to indicate that males are harsh to them as a result of societal progress. Women have committed suicide in the majority of instances as a result of mistreatment in their married homes.

In 1983, the Indian Penal Code included Section 498A to the Indian Penal Code to protect women from mistreatment by their husbands and/or relatives. From its beginnings as a welfare programme, this piece of legislation has evolved through time and now has the status of a law.

In many situations, the higher court has found that the clause has been abused. The Law Commission of India's 243rd Report on Section 498A acknowledged the situation. The research concludes that, although there is clear abuse of the provision, this cannot be used as a reason to repeal it or weaken it from its original nature. The research recommends that the general people, particularly those living in rural regions of the nation, be made aware of the provision while also screening out frivolous or revenge-oriented petitions. The paper goes on to say that lower-level entities of the Legal Services Authorities, the media, non-governmental groups, and students seeking legal education may all help disseminate knowledge about the provision.

The study also emphasises the need of reconciling instances filed under the provision with the assistance of authorised officials or family and friends. To this purpose, the paper suggests that committees be formed in each district. The study also suggests that the infraction under the clause be made compoundable provided the Court authorises it with a cooling-off period. This advice is also in agreement with the 237th report. The study warns law enforcement officials to avoid making unjustified arrests

and to rigorously adhere to the provisions of sections 41 and 41A of the Code of Criminal Procedure. The police officers' job is to safeguard the complainant from additional harassment while simultaneously ensuring that the accused's rights are not infringed arbitrarily. Automatic passport impoundment of accused Indians who are not residents should not be the norm; instead, bonds or sureties might be utilised as safety measures.

The study also recommends that women's police units be given greater resources and training. At accordance with the rule, separate rooms for female accused and complainants shall be kept in stations. For those women who do not desire to return to their marital homes, shelters or similar institutions should be established, in accordance with the directive concept of social welfare.

The report's most important proposal is to emphasise the importance of swift resolution of cases filed under the provision, which will be the prerogative of judicial and prosecutorial entities.

It is believed that when a regulating agency is too strict, there is a risk of abuse. It is impossible for a woman to commit herself in order to establish her supremacy. The reality is that death has occurred in numerous situations; one must grasp the reasons since every woman's life is on the line. People who allege that the provision is misused and that men suffer much at the hands of women should remember that there has never been a case of a man being set on fire or incited to commit suicide. There has never been any story of a guy committing suicide and blaming it on a woman. There have never been any reports of women pestering men because they lack important security.

"Section 498A of the Indian Penal Code fails to give justice to women," according to the study premise. The researcher examined section 498A of the Indian Penal Code and all of its relevant features meticulously. After reviewing all examples involving female cruelty, the theory has shown to be correct. The statistical research found that the conviction rate under section 498A of the Indian Penal Code is lower than the acquittal rate when shown in graphical form. Most court decisions have little to do

with the facts or the conclusions reached. The abuse of the section has received more attention, but the true suffering faced by women has not decreased. Women still have to find their way to justice in patriarchal societies.

The Government of India's Department of Women Welfare and Development has launched a number of programmes to raise awareness among women about social problems and injustices against them; nevertheless, more attention is needed, especially in rural areas. Although educated, urban women still endure domestic violence, which may be due to their sensitive character or to prevent family problems, she tolerates injustice and those who don't face the shame of abusing the law's provisions. Simply changing the legislation will not address the issue; a social campaign must be launched to raise awareness in society about the need of changing people's views regarding marriage in general and women in particular. On the one hand, women have risen to higher heights in every aspect of life, with more chances and channels accessible to them in every domain; on the other hand, they endure societal and home injustice. This scenario is detrimental not just to women but to Indian society as a whole. This predicament is impeding the country's social, economic, and cultural growth. A well-educated lady also teaches her family.

A happy lady can make a difference in the world. And a woman's happiness is determined by her household and societal circumstances.

"The premise of this study is that section 498A of the Indian Penal Code fails to provide justice to women," according to the researchers. Furthermore, the researchers discovered that males are also victims of injustice, indicating that a gender-neutral legislation is long overdue.

2. Suggestion:

Pre-marital counselling: Pre-marital therapy will assist the couple in understanding the goal and purpose of marriage. They may be educated about the negative repercussions of dowry.

b. Jeremy Bentham correctly said in his utilitarian theory that judges do not have the authority to establish laws; only the legislature does. Only the legislature should adopt implementing legislation to prevent misunderstanding; even the recommendations in connection to the section should be avoided.

c. The investigating officer should be punished for not investigating the case: When a case of dowry demand, dowry death, or abetment to suicide is reported to the police station, the officer in charge should make the necessary inquiries, collect the evidence, and present it to the courts so that the victim can receive justice.

d. The researcher's proposed definition of cruelty, which should be relevant to both men and women:

"Marriage cruelty comes from matrimonial bonds when one spouse or his or her family behave in a way that is unfair to the other spouse."

OR

"When a human person is cruel to another human being, he or she must be punished."

Men may be terrible to women, and women can be cruel to men, but both are inhumane crimes. Cruelty may be perpetrated for a variety of reasons.

desire for valued protection, to assert dominance over others, or for any other purpose."

e. The definition of cruelty must be amended to include the idea of mental cruelty, which is loosely defined in the Act and gives room for abuse of the provision.

f. Awareness of societal ills such as dowry must be raised among both men and women. If dowry is asked, the females should come out and say no to marriage. If no weddings are done because of dowry demands, society will inevitably reconsider and avoid it.

b. To prevent additional hassles, women should leave their in-laws' residence as soon as dowry is demanded. Whether or not to restore marital relations should be decided based on additional improvement and changes in the attitude of the husband and in-laws.

g. In police stations, separate chambers for female accused and complainants shall be kept under the requirement. For those women who do not desire to return to their marital homes, shelters or similar institutions should be established, in accordance with the directive concept of social welfare.

i. Because the non-bailable and non-compoundable character of this provision aids in the administration of justice and the protection of women, it should not be modified.

j. The media should also play an active role in releasing pertinent data and informing the public about the repercussions of dowry demand, which will have a deterrent impact on society and cause individuals to think twice before demanding any expensive security.

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