



## Short Communication

# Blame, shame and victimization of men under anti-dowry laws: The legal miscarriage

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## Abstract

Dowry has been a menace in Indian society for long and to combat the same Indian legislators enacted various laws. However, instead of 'shield', these laws, section 498A of Indian penal code (currently Section 85 and 86 of Bharatiya Nyaya Sanhita [BNS]) in particular, is now being used by women as an 'armor' to threaten, harass and exploit men for personal gratification and benefits. While these laws were designed to protect women from injustice, little consideration has been given for the legal course available to men when such laws are misused. Such misuse, not only undermines the true intent and spirit of the legislation, but also causes undue suffering to innocent individuals and it is certainly unjust to assume that domestic violence happens to women only. While proper and fair implementation of these laws remains essential, there is an urgent need for lawmakers to introduce necessary reforms in the existing laws to curb their misuse and ensure justice for all.

**Keywords:** Domestic violence, Dowry deaths, Misuse, Legal terrorism, Section 498A, Suicide.

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## 1. Introduction

The recent, tragic suicide case of a software engineer and artificial intelligence professional from Bangalore<sup>1</sup> has sparked a nationwide debate over the systemic neglect of men's issues in cases of marital discord and the subsequent legal actions taken against them under domestic violence and anti-dowry laws. The substantial evidence left by the victim in the aforementioned case, reveals a disturbing insight into the emotional, financial and social toll inflicted upon men through prolonged legal battles stemming from personal disputes.

Dowry has undeniably been a longstanding menace in Indian society. To combat the same, Indian legislators enacted the Dowry Prohibition act, 1961.<sup>2</sup> Furthermore, to regulate dowry harassment and dowry deaths, section 498A of the Indian Penal Code (IPC) was introduced in the year 1983,<sup>3</sup> making pre- and post-dowry harassment in any form an unlawful, cognizable, non-bailable and non-

compoundable offence. The demand for dowry often led to domestic violence, which further led to the introduction of the Protection of Women from Domestic Violence Act, 2005.<sup>4</sup>

Passed by parliament in December 2023, Indian Penal Code (IPC), 1860 and the Code of Criminal Procedure (CrPC), 1973 are now completely replaced by Bharatiya Nyaya Sanhita (BNS), 2023 and Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 respectively, with effect from 1<sup>st</sup> July 2024.<sup>5</sup> Section 80 of the BNS deals with dowry death, while section 85 pertains to cruelty by a husband or his relatives towards a woman and section 86 defines the term "cruelty" for the purposes of Section 85.<sup>5</sup> Considering the BNS/BNSS, 2023 being recently implemented and the offences committed on or before 1<sup>st</sup> July 2024 are to be prosecuted under IPC, for the ease of understanding the article hereinafter continues to refer to IPC sections/ subsections.

Although the aforementioned laws were enacted to protect women from the evils of dowry and related abuse,

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their misuse by some women has become a growing concern. Some unscrupulous women have been exploiting the legal provisions and loopholes for personal gain, to settle personal vendettas or to extort money and property from innocent individuals and their families.<sup>6</sup> Indubitably, the state has enacted laws for the protection of women. However, little thought has been given to the legal course to be adopted by men when women misuse these laws.

According to the data from National Crime Records Bureau (NCRB), in year 2022 a total of 1,24,000 people were arrested all over India for offences under section 498A of the IPC.<sup>7</sup> While the charge sheets were filed in 84.5% of the cases, the conviction rate stood at only 12.9% - the lowest among all IPC sections. The above-mentioned data clearly highlights the widespread misuse of section 498A. Certain specific reasons behind why section 498A is increasingly being misused<sup>8</sup> are:

1. Legal extortion: A fast-track method to unlawfully obtain substantial money or property through legal means.
2. Prior relationship: Wife had a pre-marital relationship which she was unable to end. Owing to parental pressure, she proceeds for marriage but later on misuses section 498A as a means to secure divorce.
3. Adultery: A women indulged in a extramarital affair uses section 498A as a bargaining tool.
4. Domination: The wife seeks to isolate the husband from his parents and siblings, aiming to gain complete control over his finances and social interactions.
5. Custody: Intentionally prevent the father and his family from having any contact or access to the children.
6. Fraudulent marriage: Bride and her family deliberately conceal critical information such as her education level, mental health issues or any other medical conditions. When the husband, upon discovering these facts, rightfully seeks to annul or exit the marriage, the bride retaliates by filing a false case under section 498A.

## 2. Misuse and Abuse of Section 498A of IPC: Judicial Observations

In a study funded by the Indian Council of Medical Research (ICMR) in Haryana, 1000 married men aged 21-49 years were interviewed.<sup>9</sup> Shockingly, 52.4% of them reported experiencing gender-based violence, with about the same percentage facing violence from their intimate partners at least once in their lifetime. It was observed that emotional violence often precedes physical violence, which was reported in about 1 in 10 cases and the risk factors included low family income, unemployment, alcohol use, uncontrolled anger, and ego issues. Section 498A in this regard has created a havoc in the society and has proven to be a bane rather than a boon. *Malimath's committee* in its report<sup>10</sup> on reforms of criminal justice system has observed that, *"the harsh law, far*

*from helping the genuine victimized women, has become a source of blackmail and harassment of husbands and others."* Amit Bhandari in his book *'I was alive, 498A killed me'* has put forward the absolute torture, that a man goes through when such a law is used against him and his family.<sup>11</sup> In the case of *Kans Raj vs. State of Punjab*,<sup>12</sup> Supreme Court of India held that, *"Close relations of the husband cannot be roped in the offence only on the ground that they were relatives of the husband."* It is increasingly observed that many such cases filed against the husband and his family are driven by personal grudges and are often baseless or false.<sup>13</sup> In the case of *Preeti Gupta Vs. State of Jharkhand*,<sup>14</sup> the Apex Court has observed that section 498A of the IPC requires a serious reconsideration. The court said that, *"It is a matter of common knowledge that exaggerated versions of the incidents are reflected in a large number of complaints."* In another case of *Sushil Kumar Sharma vs. Union of India and Others*,<sup>15</sup> the Supreme Court observed that the complaint filed under section 498A was intended solely to pursue a personal vendetta and held that, *"It may therefore become necessary for the Legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with"*, the Apex Court also pointed out that, *"By misuse of the provision (IPC, 1860 s498A – Dowry and Cruelty Law) a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not an assassin's weapon."*

Recently, the Supreme Court of India has expressed concern over the widely misused section 498A of the IPC being replicated in the BNS as well, without incorporating any safeguards to protect husbands and their relatives from frivolous complaints.<sup>16</sup> The Honorable Apex Court in its observation mentioned that, *"Section 85 and 86 of BNS are nothing but verbatim reproduction of section 498A of IPC. The only difference is that the explanation to section 498A of IPC, is now by way of a separate provision, i.e., section 86 of BNS."* The court further said that, *"We request legislature to look into the issue as highlighted above taking into consideration the realities and consider making necessary changes in section 85 and 86 of the BNS."*<sup>16</sup>

## 3. Fake Cases: The After Effect

Once the complaint (First Information Report [FIR]) is lodged under section 498A, the accused and/or family members are arrested and sent to jail, often without any immediate possibility of bail. As a result, the chances of amicable re-conciliation or salvaging the marriage are also lost once and for all, and the imminent arrest by the police is thus counterproductive. The accused often undergoes severe mental harassment, which can lead to suicidal tendencies. Data indicates that the suicide rate among married men in India is higher than that of married women and this rate tends to increase with age. Between the age group of 30 to 44 years and 45 to 59 years, the suicide rate for married men vs. married women per 100,000 persons was 508 vs. 220 and

1812 vs. 550 respectively.<sup>17</sup> As per the NCRB suicide data 2020, there has been a significant increase in suicide among men during the decade 2010-2020.<sup>18</sup> NCRB recorded 87,180 suicides among men in 2010 and 1,08,532 in year 2020. Shockingly, as per the data, every five minutes one man is committing suicide and every third suicide is due to ‘family problem’!<sup>18</sup> Despite immense data on the victimization of men by their wives, men do not have any protection of law for their safeguard.

#### 4. Future Prospective

The status of women in society has changed over time. Today, women are at par with men in every field of life. Anti-dowry and anti-domestic violence laws in India are prone to get misused by unscrupulous women. Keeping gender neutrality in mind, lawmakers need to come up with the amendments to prevent the misuse of these laws. State should proactively work to set up Men’s Commission wherein any atrocities whatsoever against men can be dealt effectively and efficiently. An amendment of the penal provision of imprisonment for a period as long as the actual sentence and fine or both, for any proven false accusations made under the anti-dowry laws should also be made. Judiciary should also try to expedite the trial process with regard to section 498A (currently section 85 and 86 of BNS) cases so that innocent victims get prompt redressal.

#### 5. Conclusion

Anti-dowry laws were enacted with the best intentions, aiming to protect women. However their misuse has recently become an extremely debatable issue and has directed the need for careful implementation and reforms, without compromising the justice for innocent individuals. To ensure the judicial sanctity of the laws, the onus lies with lawmakers, the judiciary and society and last but not the least on women, the prime beneficiaries of these laws.

#### 6. Source of Funding

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#### 7. Conflict of Interest

None.

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