



GENDER JUSTICE OR DISPARITY? THE RIPPLE EFFECTS OF WOMEN-FOCUSED LAWS ON MEN

AUTHOR – DIVYA TRIPATHI, STUDENT AT SHRI RAMSWAROOP MEMORIAL UNIVERSITY LUCKNOW

BEST CITATION – DIVYA TRIPATHI, GENDER JUSTICE OR DISPARITY? THE RIPPLE EFFECTS OF WOMEN-FOCUSED LAWS ON MEN, ILE MULTIDISCIPLINARY JOURNAL, 3 (1) OF 2024, PG. 293-302, APIS – 3920-0007 | ISSN – 2583-7230.

ABSTRACT

In our democratic nation, we are governed by the Constitution of India, which stands as the most comprehensive written constitution in the world. The Constitution's provisions guarantee equality before the law for all individuals, irrespective of their citizenship, gender, wealth, social standing, or legal status. Nevertheless, despite this foundational principle of equality, societal norms often favor men over women, resulting in a notable imbalance in social status. In contemporary society, there are instances where women infringe upon men's rights, driven by their ego. It is regrettable that some women recognize their misconduct yet continue to engage in harassment and violations against men, allowing their ego to take precedence. In this context, men emerge as the primary victims. They are compelled to navigate legal proceedings for actions they have neither committed nor would be expected to commit. During the legal process, men endure defamation until a favorable judgment is reached. They are required to dedicate significant time to preparing their defense, collecting evidence, locating witnesses, and even sacrificing their employment. The fundamental right to life and liberty of man is being violated before the court itself, as they are forcibly involved in a fictitious case.¹

Keywords: constitution, equality, gender, social status, judgment, liberty, court, defamation, right to life and liberty.

GRASP - EDUCATE - EVOLVE

¹ Gender, Constitution and the Courts □ in Engendering Law, S.P. Satlie



Introduction

In recent years, there has been a resurgence of feminist movements in India, advocating for women's rights and challenging the status quo. These movements have brought attention to issues such as domestic violence, sexual harassment, and workplace discrimination, pushing for reforms that address these critical concerns. The voices of women from diverse backgrounds are increasingly being amplified, creating a more inclusive dialogue about gender equality. Despite the progress made, significant challenges remain. Societal attitudes towards women continue to be influenced by deep-rooted cultural norms, and many women still face barriers to accessing education, healthcare, and economic opportunities. The intersectionality of gender with other social identities, such as caste, class, and religion, further complicates the landscape of women's rights in India.

To truly honor the legacy of reverence for women that existed in ancient India, it is imperative to continue advocating for their rights and to work towards a society where women are not only respected but also empowered to lead and thrive. This requires a concerted effort from all sectors of society, including government, civil society, and individuals, to create a future where gender equality is not just an aspiration but a reality.

Engaging men as allies in the fight for women's rights can help dismantle harmful stereotypes and promote a more equitable society. This collaborative approach can lead to a more profound societal change, where both men and women work together to create an environment that celebrates equality and mutual respect. The complexities surrounding the implementation of women's rights laws highlight the need for a nuanced understanding of gender dynamics in contemporary society. Advocacy for women's rights must not only focus on the creation of laws but also on fostering a cultural shift that values and respects women's contributions

across all spheres of life. Education plays a pivotal role in this transformation, as it equips women with the knowledge and skills necessary to navigate and challenge the patriarchal structures that seek to limit their potential. The primary intent behind these legal frameworks is to empower women and rectify historical injustices. The challenge lies in ensuring that these laws are applied fairly and effectively, without being manipulated for ulterior motives.

Protection provided to women under Indian Legislature

The Indian legislature has made significant strides in establishing a comprehensive framework of laws designed to protect women from various forms of social injustices and severe offenses that are often perpetrated against them. These laws are crucial in addressing the unique challenges faced by women in society and can be categorized as crimes against women under specific national and local statutes.

Among the key legislative measures introduced by Parliament to safeguard women's rights and well-being are several important laws that tackle a wide array of issues. One of the most notable is the Dowry Prohibition Act 1961, which aims to eliminate the practice of dowry, a social evil that has led to numerous cases of harassment and violence against women. This law makes it illegal to demand or give dowry, thereby seeking to protect women from financial exploitation and abuse.

Another significant piece of legislation is the Prevention of Sati Act 1829, which prohibits the practice of sati, where a widow is compelled to self-immolate on her husband's funeral pyre. This law is a critical step in ensuring that women are not subjected to such extreme forms of social pressure and violence.

The Child Marriage Restraint Act 1929 is also pivotal in protecting young girls from being married off at an early age, which can lead to a host of health, social, and economic issues. This law sets a legal minimum age for marriage,



thereby empowering girls to pursue education and personal development before entering into marital commitments.

In addition to these laws, the Protection of Women from Domestic Violence Act 2005 provides a legal framework for women facing domestic abuse. This legislation recognizes various forms of domestic violence, including physical, emotional, and economic abuse, and offers women the right to seek protection and legal recourse against their abusers.

Furthermore, the Maternity Benefit Act 2017 ensures those women are entitled to certain rights during pregnancy and childbirth, including paid maternity leave and job security. This law is essential in promoting the health and well-being of both mothers and their children, as well as supporting women's participation in the workforce.

Workplace safety is another critical area addressed by legislation, with laws such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013. This law aims to create a safe working environment for women by prohibiting sexual harassment and providing mechanisms for redressal in case of violations.

In addition to these offenses, specific provisions were established under the Indian Penal Code of 1861, which has since been superseded by the Bharatiya Nyaya Sanhita of 2023². These provisions include: Dowry death as defined in Section 304B IPC (Section 80 BNS), Acid Attack covered under Sections 326A and 326B IPC (Section 124 BNS), Outraging the modesty of women as per Section 354 IPC (Section 74 BNS), Sexual harassment outlined in Section 354A IPC (Section 75 BNS), Assault on women with the intent to disrobe as per Section 354B IPC (Section 76 BNS), Voyeurism defined in Section 354C IPC (Section 77 BNS), Stalking as per Section 354D IPC (Section 78 BNS), Rape as defined in Sections 375 & 376 (Sections 63 & 64 BNS), and Cruelty as outlined in Section 498A IPC

(Sections 85&86 BNS). In summary, the Indian legislature has enacted a diverse range of laws aimed at protecting women from various forms of discrimination, violence, and exploitation.

Failure of the Object of Women Protective Laws

These laws have the potential to play a pivotal role in protecting women's rights at home and preventing domestic abuse. In a patriarchal culture, it is important and praiseworthy that people see violations of rights as wrong, especially when they have become common place. After acknowledging women's rights and the violations of those rights, the next stage is to provide effective and novel remedies for enforcing those rights.

The authors, however, find fault with the way these laws treat male children. Despite several counterarguments, the authors of this piece believe that the protections afforded by these statutes do not include boys. To begin, a woman who is or was in a domestic connection with the respondent is considered an aggrieved person under such women protection legislation.

One may make the case that these regulations were enacted to protect girls and women rather than boys. After all, the passage of such legislation suggests that it is intended to safeguard women's rights. Though such crimes are more often experienced by women, it is important to remember that they are sometimes perpetrated on male youngsters. To argue that male children should be denied easy access to relief from such acts on the basis of their gender alone is a weak justification. The sexual abuse of male children cannot be remedied in any appropriate way by the BNS (IPC), even if it could appropriately handle other types of violation of rights (which scarcely appears the case). To see how the rape crime addressed in the BNS (IPC) came to be defined in gender-neutral terms so that protection might be extended to male minors as well, one need only go at the following 172nd Law Commission Report. The alarming rise in reports of sexual abuse of minors of both sexes made this a need. Once it is seen that male children

² [Act 45 of 2023]



are similarly harmed by sexual abuse by female children, it is understood that they too need protection from such abuse in the "private" realm. On the surface, it would seem that there is no good reason to exclude male children from legal safeguards against such crimes.

Reverse Impact on Society

According to **CJI Dipak Misra**– "The goal of the criminal justice system is to curb, if not eliminate, the social ailment that attacks the spinal column and eats away at the bone marrow of a sizable percentage of the population. It is an outcome-focused provision that kicks in when a certain condition is met. When a new law is passed that protects vulnerable groups, the victims feel more secure. However, when the law concerns the marital relationship, it's not uncommon for both spouses to be held accountable for any wrongdoing that occurs within it. When claiming victim status, the accused may express extreme worry and heightened energy as they construct the harassing scenario. As a result, criminal law provision abuse has skyrocketed. A protection clause regarding arrest is introduced by the legislature in cases when the law enforcement agency abuses its authority in carrying out the law. Because no court of law even faintly conceives of a battle between the sexes, the courts have great jurisdiction to give pre-arrest release, sometimes known as anticipatory bail, and even to dismiss the criminal process entirely to stabilise the legal balance. The courts never lose sight of the fact that even if there is no conflict, neither side should use the law to harass the other with threats of influence or the principle of compassion out of wrath or revenge. Sometimes the function of law enforcement or prosecution is tinged with superlative empathy, with officials blissfully unaware of the sense that they are engaging in a game of super sensitivity that they are hopelessly outmatched in. A social calamity of this magnitude has the potential to cause deep fractures in society. Objectivity in the study of social phenomena necessitates a developed sensibility for such phenomena. So that the social hazard might be mitigated, it is

the responsibility of the legislature to enact protective adjective legislation, and of the constitutional courts to understand and evaluate the measure. In the present cases, we are concentrating on Section 498A IPC"³(Sec 86 BNS).

The number of divorce and family law cases has skyrocketed in recent years. In this nation, the institution of marriage is flipped on its head. The purpose of adding Section 498A to the IPC was to protect women from harassment by their husbands or other close male relatives. Among the statutes that are employed as weapons rather than shield by dissatisfied women, Sec. 498A (Sec 86 BNS) has a questionable position of honour since it is a cognizable and non-bailable violation. To harass someone, all you have to do is use this law to have the spouse and his family members jailed. The elderly grandfathers and grandmothers of spouses, whose sisters have been living abroad for decades, are often detained. National Crime Records Bureau, Ministry of Home Affairs' "Crime in India 2012 Statistics" reports that 1,97,762 people were arrested throughout India in 2012 for violating Section 498A of the Indian Penal Code, a 9.4% increase from 2011. The fact that 47,951 women were detained in 2012 shows that they did not hesitate to arrest the mothers and sisters of the husbands. It accounts for 6 percent of all arrests made for offences covered by the Indian Penal Code. More than any other crime save theft and harm, it accounts for 4.5% of total offences committed under various Section of the criminal code. In instances involving Section 498A of the IPC (Sec 86 BNS), the charge-sheeting rate is as high as 93.6%, while the conviction rate is just 15%, the lowest of any section. There are as many as 3, 72,706 cases waiting to go to trial, with an estimated 98% chance of acquittal.

Arrest is a source of shame, limits personal freedom, and leaves permanent marks. The legislature and the force are aware of this fact. Lawmakers and police officers are at odds, and

³ 2018(4) RCR (Criminal) 228(SC).



it seems that the police force has not yet internalized the lessons implied in and reflected by the Criminal Procedure Code (BNSS). Despite being free for sixty years, it still has a colonial reputation: it's seen as a means of repression and intimidation rather as a friend to the people. Courts have often stressed the need of exercising discretion when using the potentially disastrous power of arrest, but this has not had the intended results. Its hubris is fueled in large part by the fact that the Magistracy has been unable to rein it in. Furthermore, police corruption sometimes finds profitable outlets in their arrest powers. It's a disgusting mentality to make an arrest before doing anything else. It's become a useful tool for insensitive or malicious police personnel.⁴

In *B.S. Joshi and others v. State of Haryana and another*⁵, the Hon'ble Supreme Court observed: "Chapter XX-A of the Indian Penal Code includes Section 498A (Sec 86 BNS), whose stated purpose is to protect women from torture at the hands of their husbands or their husbands' relatives. The purpose of adding this section was to penalise a husband and his family for harassing or torturing a wife in order to force her or her relatives to pay an illicit dowry. This too technical perspective is harmful because it undermines the goal of including this provision and works against the interests of women. Inherent ability to quash the procedures to achieve the goals of justice would likely prohibit women from setting sooner if it were not used."⁶

Legislation Neglect to Men

In the midst of the intensified and enlightened activism surrounding gender bias to safeguard women's rights and dignity, there exists a significantly overlooked issue of harassment experienced by men in various forms. Unfortunately, this issue tends to be disregarded by those advocating for gender neutrality, either due to its absence from their agenda or

because it does not align with their perception of gender neutrality.

The notion that males might also be victims is utterly disregarded by Indian law. The crimes of sexual harassment, disrobing, stalking, and voyeurism are explicitly male-perpetrated and female-victimized under IPC Sections 354A, 354B, 354C, and 354D (Sec75, Sec76, Sec77, and Sec78 BNS). The rape of a woman and the outraging of her modesty are also addressed in Sections 376 and 509 (Sec 64&Sec79 BNS). Men don't have the same modesty dilemma as women do. It's odd that only sodomy earlier, in violation of Section 377 of the IPC, was considered a sexual offence against a man but the BNS does not include anything similar to Section 377 of IPC. This means that there is no remedy under law for non-consensual penile penetrative sex against a man or transgender person. In other words, the government will only intervene if a guy is sodomised.

The law was passed in 2013 and is officially known as the Sexual Harassment of Women in the Workplace (Prevention, Prohibition, and Redressal) Act. Because of men's general lack of awareness, this is a much bigger issue nowadays. A man has no legal recourse in the event of sexual harassment at the hands of a female. Males are also afforded legal protection under sexual harassment at work legislation in other nations, despite the fact that women are harassed in the workplace at a higher rate than males. The pathetic state of the country's sexual harassment laws against males is on full display in these cases.

Despite the fact that Section 498A IPC (Sec86 BNS) considered one of the most misused laws in the nation has been frequently utilized by numerous women to falsely accuse their in-laws of dowry harassment and cause them distress, the situation has now shifted following the intervention of the Supreme Court.

The Supreme Court has said in a recent order that Sec. 498A of the IPC (Sec 86 BNS) (Dowry harassment charges) has "dishonorable prominence among the supplies that are more

⁴ <https://indiankanoon.org/doc/81618143/>

⁵ (2003) 4 SCC 675 : AIR 2003 SC 1386

⁶ <https://indiankanoon.org/doc/81618143/>



often utilized as weapons than defenses by angry spouses". The apex court restrained police from arresting the husband or his relatives on the mere lodging of a complaint under the Sec. It required them to satisfy themselves about the necessity of arrest under the parameters set forth in Sec. (41) of the CRPC (BNS 2023), which provides a checklist or conditions to be satisfied before arresting any person involved in a crime punishable with less than seven years of imprisonment.

Women Centric Laws in India: A Shield or Sword?

Feminist groups across the board have praised India's new gender-neutral legislation. They argue that victims will be better protected and feel empowered by this legislation.

Most sane individuals would agree that it's unacceptable to violate someone's rights. To ensure the safety of victims and their children is not just a matter of physical protection; it is a fundamental component of fostering their mental and emotional health. By creating safe spaces, we empower victims to heal, rebuild their lives, and break the cycle of abuse, ultimately leading to healthier families and communities.

The legislation seems like a boon to those in violent or abusive relationships at first glance. Careful examination, however, shows that this bill is just another foolish effort to implement laws granting women legal dominion over males and creating a society where men are stripped of their rights under the guise of "women and children welfare.

Numerous incidents illustrate that the legal protections afforded to women, which are intended to safeguard them from societal injustices, have sometimes been misused as a means to assert dominance over men. This troubling phenomenon raises significant concerns about the integrity of the legal system and the potential for abuse of power by individuals who may exploit these protections for personal gain or to settle scores. There are

various instances where women have filed false allegations, including those related to rape, domestic violence, sexual assault, molestation, or dowry demands. These allegations often stem from minor disputes or misunderstandings, and in some cases, they may be motivated by a desire for revenge or to gain leverage in a contentious relationship. Unfortunately, many individuals who engage in such actions may not fully comprehend the severe repercussions of their choices, both for the accused and for the broader societal perception of genuine victims seeking justice.

The National Crime Records Bureau (NCRB) 2022⁷ Report provides alarming statistics that highlight the complexity of this issue. According to the report, there were 239 cases of dowry deaths, which underscore the tragic reality of violence against women in the context of dowry demands. Additionally, there were 7,076 instances of cruelty against women by their husbands or relatives, reflecting the ongoing struggle many women face in abusive domestic environments. The report also documented 760 attempts of rape and 6,821 cases of outraging women's modesty, both of which indicate the prevalence of gender-based violence. However, the report also reveals a troubling aspect of the legal landscape: 4,340 rape cases were ultimately determined to be false. This statistic raises critical questions about the motivations behind such allegations and the impact they have on the lives of the accused, who may suffer irreparable harm to their reputations, mental health, and personal relationships. The existence of false allegations can also undermine the credibility of genuine victims, making it more challenging for them to seek justice and support. In light of these statistics, it is essential to foster a balanced discourse around the legal protections for women. While it is crucial to uphold and strengthen these protections to combat genuine instances of violence and discrimination, it is equally important to ensure

⁷

<https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>



that the legal system is not weaponized against men through false allegations.

These male-focused rules believe that males are the exclusive aggressors and treat women as the sole victims of domestic abuse. According to these statutes, only a female victim may submit a complaint against a male offender. A male victim of such an offence has no legal recourse.

Many studies have shown conclusively that domestic violence against women is just as common as against males. Providing women with such broad legal protections while denying males the same is akin to systemic legal victimization of men. It defies logic and reason to think that the Indian version would forbid any male victim to seek remedy under this statute.

The second major fault with these laws is that it is too simple to abuse them, making it more likely that women would file false and frivolous complaints in an effort to "teach a lesson" to males. The anti-dowry statute Sec 498A IPC (Sec 86BNS) is being abused to the point that the Supreme Court has dubbed it "**Legal Terrorism**" and a similar pattern is emerging there as well. Take a look at the examples below to see how the women-centric may be abused. [She means wife/female and he means husband/male]

In the event that she makes a financial demand on him, he must comply or face the possibility of incarceration. This rule, which purports to protect women from financial mistreatment, actually makes it permissible for them to demand payment under threat of force. Interestingly, he may go to prison for extortion if he asks her for money. If the couple is living in a rented flat, he is also accountable for the rent.

She is still legally entitled to live in the house. Whether or whether she really has any claim to the home, this is a highly practical way for her to get control of it. Even if he may not be able to stay in the property after being booked for Domestic Violence, he is still responsible for paying the rent.

If she decides she no longer wants to cook and instead eats out for every meal, he will have to give in or risk being charged under the domestic violence clause for "not providing food" and facing prison time.

If she feels offended, she may have him arrested under these statutes. The definition of "insult" is subjective and entirely up to her. Interestingly, man has no legal remedy under this statute if she verbally or physically attacks him.

These are just a few of the ways women may take advantage of men without breaking the law. Taking a woman's complaint at its value as "true and genuine" might lead to false accusations and false prosecutions against innocent males who refuse to give in to a woman's excessive demands.

Women Centric Laws Gives Abusive Powers to Women

The following is a list of women's rights or instances of abusive power towards men:

- a) The entitlement to exercise authority and control over their male counterpart.
- b) The entitlement to publicly humiliate and inflict physical harm on the male partner and his family.
- c) The entitlement to deprive the male individual of his financial assets and belongings.
- d) The entitlement to engage in infidelity without repercussions, including the potential imprisonment of the male partner for dissent.
- e) The entitlement to pursue sexual harassment against a man without facing consequences.

Trend of Filing false Rape Cases Rises

In contemporary society, reports of rape, whether genuine or fabricated, dominate the headlines of newspapers. A significant number of these alleged cases involve complainants who either become antagonistic or fail to substantiate their claims convincingly. The motivations behind such false allegations can vary, including coercing men into marriage,



seeking financial compensation, or obtaining other advantages. Courts frequently issue rulings on this matter, reflecting judges' concerns regarding the misuse of laws pertaining to rape. However, there is a noticeable absence of reports indicating that such fraudulent cases are dismissed at the initial stage within police stations.

Fictitious demands Created after Death

There are many cases where false claims arise after someone's death, even when there were no previous accusations of harassment or mistreatment. In various rulings, courts often do not categorize these cases as dowry deaths. The demand for dowry is not the sole reason for the deaths of brides.

Other factors contributing to brides' deaths include:

- a. The bride's desire to separate from her in-laws.
- b. The husband's reliance on alcohol.
- c. The bride's heightened emotional sensitivity.
- d. Issues stemming from sexual jealousy.
- e. Criticism regarding meal preparation.
- f. The husband's restriction on the wife visiting her family.
- g. The wife's struggle to adapt to a new living environment.
- h. Difficulties associated with infertility.

Thus, the courts are supposed to scrutinize the evidence properly to decide whether it is a case of dowry death or not. In some cases, the parents of the deceased want to extract money from the husband of deceased after her death. There is disregard of moral values in a number of cases. In many cases the parents of the deceased are actually aware of the reasons behind death but for ulterior motive FIR against innocent person.

It is essential to reference the ruling issued by the Hon'ble Supreme Court in the matter of

judgment delivered by Hon'ble Supreme Court in the case of **State of HP v. Niku Ram and others**⁸ where explanation on Section 498 A IPC has been delved into in detail. In order to fall within the purview of Section 498 A IPC, the Hon'ble Apex Court has emphasized the importance of establishing a nexus between cruelty and the demand for dowry. It was unequivocally laid down that pre-condition for attracting the provision of the section is the demand and if the demand is missing cruelty for the sake of giving torture to the women without any nexus with the demand shall not be covered within the ambit of explanation.

In view of aforesaid discussion it can be safely said that prosecution has miserably failed to establish its case and resultantly the accused persons are hereby acquitted of the charges leveled against them.

Landmark Cases

State of Haryana v Bhajan Lal (1990)⁹ This case has significantly influenced India's legal history, establishing a precedent that will impact numerous future cases. It serves as a landmark decision that not only shapes the interpretation of existing laws but also sets a standard for how similar cases should be approached in the future. In a democratic society, it is imperative that the rights of individuals are protected while also ensuring that the broader community's welfare is taken into account. This case exemplifies the delicate equilibrium that must be maintained between these two often competing interests.

This case is frequently referenced in conversations regarding the misuse of Section 498A of the Indian Penal Code (IPC), which addresses cruelty towards married women. Section 498A was originally enacted to protect women from domestic violence and harassment, but over the years, there have been numerous instances where it has been misused for personal vendettas or to settle scores. The case in question has brought to light the need

⁸ (1995) 6 SCC, 219

⁹ <https://indiankanoon.org/doc/1033637/>



for a nuanced understanding of this provision, recognizing that while it serves an important purpose, it can also be exploited if not carefully monitored.

Preeti Gupta v State of Jharkhand 2010 In this case it was determined that claims made against the husband's relatives require thorough examination and caution. The court noted that the accusations directed at the petitioners were vague and all-encompassing. It is acknowledged that the primary concern of the wife was directed towards the husband. The Supreme Court has remarked that complaints are not invariably genuine and may occasionally be lodged with ulterior motives¹⁰

Achin Gupta v State of Haryana 2024 The Court expressed significant apprehensions regarding the potential abuse of Section 498A of the Indian Penal Code in cases initiated by the wife or her relatives against the husband and his family members. Furthermore, the Court urged the Parliament to consider amending related provisions, specifically Sections 85&86 BNS in order to safeguard against the misuse of this legal provision.¹¹

Arnesh Kumar vs State of Bihar 2014 This case involved the improper application of Section 498A and underscored the concern regarding the arrest and detention of accused individuals in the absence of adequate investigation or evidence. The Supreme Court determined that arrests in these circumstances should occur only following a comprehensive investigation and with appropriate justification. The Court addressed the potential for misuse of Section 498A (Section 85&86 BNS) of the Indian Penal Code, noting that arrests could be initiated based solely on allegations without substantial proof. The Apex Court emphasized that such arrests should not be conducted routinely and must be preceded by thorough investigative procedures.¹²

In recent one of the case the Supreme Court annulled a first information report (FIR) filed by a wife against her husband and in-laws, who were accused of subjecting her to cruelty. The Court emphasized that the police should intervene only as a last resort and specifically in cases of genuine cruelty and harassment. The Bench determined that pursuing prosecution against the husband constituted an abuse of legal processes, particularly when the allegations were vague and lacked concrete evidence of criminal behavior. It asserted that if the court perceives the complainant's motives as questionable, it should critically assess the context, even if the FIR suggests a cognizable offense. Furthermore, the Court indicated that Section 498A of the Indian Penal Code warrants a thorough reevaluation by lawmakers, noting that many complaints often present exaggerated accounts of events. The Bench also pointed out that the forthcoming Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, set to take effect on July 1, 2024, merely replicate the provisions of Section 498A of the IPC. Consequently, the Bench has urged the legislature to address these practical concerns and consider necessary amendments to the new sections.¹³

Rajesh Sharma v State of U.P 2017 The Court emphasized the notably low conviction rate associated with Section 498A cases, suggesting that many of these cases were initiated without sufficient justification. The guidelines were established with a focus on ensuring justice and fairness, as well as maintaining constitutional safeguards. The Court aimed to avert unwarranted arrests and safeguard individual rights, all while preserving the fundamental intentions underlying Section 498A¹⁴.

Conclusion

The misuse of the judicial system by women who make false allegations against men within seven years of marriage is perceived as a direct

¹⁰ <https://pib.gov.in/newsite/PrintRelease.aspx?relid=78322>

¹¹ <https://www.verdictum.in/court-updates/supreme-court/achin-gupta-v-state-of-haryana-2024-insc-369-sections-85-86-bharatiya-nyaya-sanhita-1533673>

¹² <https://indiankanoon.org/doc/2982624/>

¹³ <https://theleaflet.in/criminal-justice/quashing-a-vague-498a-ipc-fir-supreme-court-asks-the-government-to-relook-at-equivalent-bns-provisions>

¹⁴ <https://indiankanoon.org/doc/182220573>



affront to the dignity, right to life, and freedom of these individuals. In such instances, women are often presumed innocent until proven guilty, which can lead to a situation where men suffer due to the absence of formal complaints. This leniency can create significant challenges for men, particularly when evidence and witnesses are scarce. The potential for laws to be exploited for personal advantage can result in an abuse of power, with some women leveraging the legal framework against men.

Despite ongoing efforts to rectify these issues, the legal landscape in India continues to present difficulties in addressing matters related to law enforcement and justice. The resolution of these cases frequently hinges on financial considerations, which can have dire implications for those who choose to contest the allegations. The Supreme Court of India has expressed serious concerns regarding the misuse of Section 498A of the Indian Penal Code, characterizing it as a form of "legal terrorism." The Court has underscored the necessity for investigative bodies and judicial authorities to take measures that protect innocent individuals from unfounded accusations.

References

1. R.V. Kelkar's Criminal Procedure
2. Ratanlal & Dhirajlal's the Indian Penal Code (Act XLV of 1860)
3. "Is India ready for gender neutral laws?" by Ayushi Raghuvanshi & Udit Malik
4. Gender Neutrality of Indian Laws - Myth or Reality? By Swati Pandita
5. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4123805
6. Gender Neutral Law- How Needful in India by Shweta Kabra
7. <https://docs.manupatra.in/newsline/articles/Upload/3FE150D0-E784-49BD-8328-4134C0E87955.pdf>
8. <https://theleaflet.in/criminal-justice/quashing-a-vague-498a-ipc-fir-supreme-court-asks-the-government-to-relook-at-equivalent-bns-provisions>
9. <https://pib.gov.in/newsite/PrintRelease.aspx?relid=78322>
10. <https://www.verdictum.in/court-updates/supreme-court/achin-gupta-v-state-of-haryana-2024-insc-369-sections-85-86-bharatiya-nyaya-sanhita-1533673>
11. <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577-CrimeinIndia2022Book1.pdf>