

Need For Gender Neutral Laws In India- With Reference To Section 498A And Protection Of Women From Domestic Violence Act, 2005

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I. INTRODUCTION

During the 1980s a huge wave of protests were carried by several women rights organisation against the torture and crimes against women in their matrimonial houses by their husbands and their in-laws. After continuous protests and lobbying by the women's organisations the legislators brought laws like section 498A and 304B IPC after amending the Criminal Law Amendment Act, 1984 and 1986. These laws were made strong and harsh with the intent to provide maximum protection to women who were tortured or harassed because of dowry by their husbands and in-laws. The provisions were non-bailable, cognizable and non-compoundable. After a disastrous failure of the parent Act, the Dowry Prohibition Act, 1961, these provisions proved their metal and safeguarded women's rights and helped in delivering of proper justice. But lately, a new trend has emerged in society where women are misusing these laws against their husbands and in-laws. The primary reason for this is that over many years the police, society as well as the judiciary developed a pre-conceived notion that when a woman complaints against her husband or in-laws she always speaks the truth, but this myth was busted in the case of Preeti Gupta v. State of Jharkhand and Savitri Devi v. Ramesh Chand and also the landmark judgement of Arnesht Kumar v. State of Bihar in 2014. The Law Commission in its 243rd Report mentioned that section 498A IPC is the most misused legal provision and also the Supreme Court has termed it as 'Legal Terrorism'. The primary cause of such misuse is the laws are not gender neutral and also there is no provision in favour of men, in cases where the woman files a false complaint under section 498A IPC. It will not be incorrect to state that laws in India are pro-woman and it's high time that India has to make these legal provisions gender neutral. This paper will discuss the reasons of misuse and the recent development with regards to the section 498A IPC along with suggestions.

Anybody can be affected by cruelty or domestic abuse, and anyone can be an abuser. It doesn't just happen only to women – men also can be victims. Women aren't the only victims of domestic violence or dowry cruelty/harassment. The primary cause of such a change in attitude is certain women is because they want to be in control over their husband and in-laws, in many cases the mother and other family members of the woman influence her thoughts and this causes dispute between the spouses. The false charges are implicated against husbands and his relatives to extort heavy amount of money in the name of compensation. Amit Bhandari's e-book "I was Alive but 498A killed me", is a classic examples of the horrors of misuse of such laws and why we need gender neutral laws in India. In an interview of MadhuKishwar with Sumitra Kant from Punjab Stri Sabha, in which she confirmed the fact that the proportion of the blackmail by wives cases is growing fast in Punjab and has also talked about many cases of like manner in her knowledge.¹

The National Crime Records Bureau Report² of 2015 shows some shocking fact that the total number of suicide were 1,33,623, out of which 91,528 were men (68%) and 42,088 were women. Total number of married persons who committed suicide were 86,808, out of which 64,534 (74%) are men and the 26% are women.

According to the United Nations Crime Statistics, India's rank is third with regards to wives beating their husbands³.

Unfortunately in India provisions like section 498A IPC and Protection of Women from Domestic Violence Act, 2005 provides protection only to women and has failed to recognise the fact that men also can be the victims of domestic violence or cruelty in cases of matrimonial disputes. Some of the Men's Organisation have constantly demanded that provisions like section 498A be repealed for good, but they fail to understand that only because certain women are misusing the provision does not make it a valid reason reason to

¹KishwarMadhu., 'Laws against Domestic Violence - Underused or Abused?', Available at <http://www.indiatogether.org/manushi/issue120/domestic.htm>, accessed on 15-10-2019 at 04.02p.m.

²'NGO says men more vulnerable than women- need a commission', Available at <https://www.hindustantimes.com/india-news/ngo-says-men-more-vulnerable-than-women-need-a-commission/story-8V9o3RDSKawGMkzSVpfljL.html>, accessed on 15-10-2019 at 04:43p.m.

³'India among countries where women beat their husbands', Available at <https://www.khaleejtimes.com/international/india/india-among-countries-where-women-beat-their-husbands>, accessed on 15-10-2019 at 04:57p.m.

repeal the provision altogether. There was a purpose for the enactment of such legal provisions. It is the need of the hour when the government amends the existing laws i.e., the Protection of Women from Domestic Violence Act, 2005 to Domestic Violence Act and create a separate provision or a clause for women who falsely implicate their husbands and their family members under Dowry cruelty charges. This research paper will focus on why we need gender neutral laws and effects of misuse of laws by wives against their husbands and their family along with their possible remedies, cases and suggestions.

1.1) Definition

1.1.1) Section 498A - Husband or relative of husband of a woman subjecting her to cruelty -

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

Explanation: For the purpose of this section, “*cruelty*” means

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

Section 498A is considered as one of the most misused legal provisions in the present times. By the definition of cruelty mention in the section itself gives a clear notion of gender biased feature. The words of the section reads as ‘*drive the woman*’ here the legislators have to recognise the fact that the present is different from that of the past. The present scenario is that dowry cruelty is committed against men as well so, instead of mentioning only women in the provision men too should get the protection under this section and the lines should be changed to ‘*drive any person*’ and not ‘*drive any woman*’.

I.I.II) Section 3- Domestic Violence–

Any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

- a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse or
- b) Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security or
- c) Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b) or
- d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

It can be seen here that both definitions only speak about the cruelty and harassment of women and not men. Also the recent amendment of certain sections in the Protection of Women from Domestic Violence Act, 2005 like section 2 (a) definition of an aggrieved person which states – any *woman* who is, or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. In this definition too, it has been clearly and expressly mentioned that the aggrieved person is *any woman*, here the law fails to recognise any aspect of the fact of men being subjected to domestic abuse and that the aggrieved person should include the words *any person* and *not any woman*.

I.II) Historical Background of 498A IPC and Protection of Women from Domestic Violence Act, 2005.

After the drastic failure of the parent act The Dowry Prohibition Act, 1961 the societal condition relating to dowry offense cases had worsened. Section 498A IPC was enacted after the Criminal Law (Amendment) Act, 1984. The PWDV Act, 2005 came into existence in order to provide a remedy in the civil law for the protection of women from being victims of

domestic violence and to prevent the occurrence of domestic violence in the society the Protection of Women from Domestic Violence Bill was introduced by the legislators in the parliament

II. WHY WE NEED GENDER NEUTRAL LAWS

Before understanding why we need gender neutral laws, it is important to understand what those laws which need our attention are. For example anti-dowry laws⁴ needs special attention. The reason is, these laws were specially enacted for the benefit of women who were victims of dowry cruelty and dowry death. These laws were non-bailable, non-compoundable and cognizable which made them prima facie harsh. When a complaint was registered under such provisions the accused was arrested without any delay and at any time of the day or night. The Police would arrest all the accused even without investigation because of a pre-conceived notion that the complainant woman is definitely speaking the truth. The same attitude was carried by the magistrate as well. But, in many cases it has been found that the cases registered under section 498A IPC are based upon false and concocted facts. Many times the complainant roped in those relatives who had nothing to do with the case even when they were living in some other state. The false charges put on the accused husband and his relatives proved to be tormenting for them and the attitude of the police and the magistrate made the situation worse.

In the case of *Preeti Gupta v. State of Jharkhand*⁵, the Supreme Court observed that most of the cases filed under section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberation. The Apex Court further states that 'We come across a large number of complaints which are not bona fide and are filed with oblique motive'.

Another incident where Deeptanshu an IITian was falsely implicated by his wife under section 498A IPC. According to a report by the India Today⁶, the session court acquitted the IITian topper Deeptanshu Shukla of all charges. Along with the acquittal, the session court

⁴ Anti- Dowry Laws – Section 304B and 498A of the Indian Penal Code, 1860.

⁵ AIR 2010 SC 3363, (2010) 7 SCC 667

⁶ Adak Baishali., 'Court acquits dowry accused, highlighting plight of men in such cases', Available at <https://www.indiatoday.in/mail-today/story/court-acquits-dowry-accused-highlights-plight-of-men-in-dowry-cases-324115-2016-05-18>, accessed on 15-10-2019 at 10:04 p.m.

commented on the complainant and her family in rather adverse manner. Shukla states that the police in his case were biased and poured havoc upon his family. He was arrested from a hospital where his mother was getting her surgery and also the police raided his house without warrant in presence of his 70 yrs old grandparents.

There are several cases reported every day under section 498A/406 IPC along with the Dowry Prohibition Act, 1961 and the Protection of Women from Domestic Violence Act, 2005, but most of the cases are dismissed at the investigation level itself.

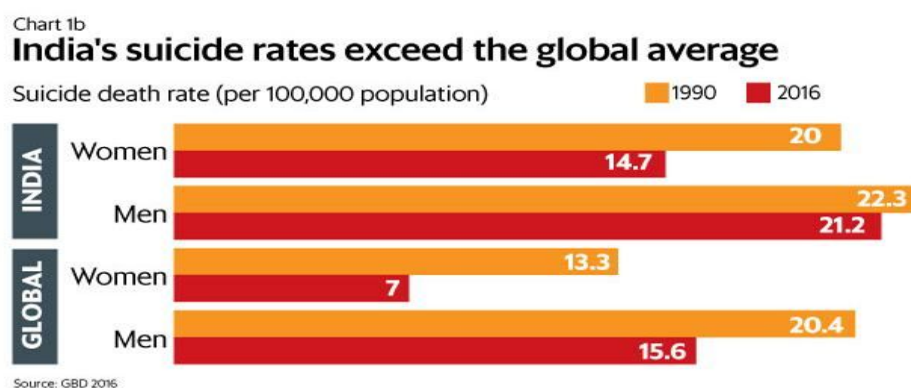
According to a report by The Guardian⁷, more than 40% of the victims of Domestic Violence are male. Many may argue that all laws are prone to misuse, because everything comes with its advantages and disadvantages but when we talk about laws like section 498A/406 IPC, Dowry Prohibition Act, 1961 it is found that around 80% of the complaints that are filed with the police are based upon exaggerated facts and are mostly disposed of by the police, and remaining which reach up to the trial the conviction rates are very low in cases of 498A IPC mostly due to insufficient evidence or court finds the complaint to be not true.

The tendency of certain women who falsely implicate their husbands is to rope in all their relatives in such cases in order to cause major reputational injury and also to prove the fact that they had a common intention in harassing her for dowry. Sometimes relatives living abroad have also been roped in such cases, who haven't been living in the country from past several years. In the case of *Kans Raj v. State of Punjab*⁸, the Supreme Court has observed that a tendency has developed to rope in all relatives in dowry cases which ultimately weakens the case of the prosecution even against the real accused.

According to the National Crime Records Bureau Report 2015, the number of cases under section 498A IPC ended as final report false were 7458 out of the total number of cases under investigation 163912. It is also very important to note the rate at which married men are committing suicides.

⁷ Campbell Denis., 'More than 40% of Domestic Violence Victims are Male, Reports Reveal', Available at <https://www.theguardian.com/society/2010/sep/05/men-victims-domestic-violence>, accessed on 15-10-2019 at 10:26 p.m.

⁸ 2000 5 SCC 207



[Fig.1]⁹

According to Fig.1, it is clear that both globally as well as in India the suicide rate in Men is much higher than women.

In 2015 the National Crime Records Bureau let out a shocking information on the suicide rate of men in India, the total number of suicide cases in India were 1, 33,623, out of which 91,528 about (68%) are men and 42,088 were Women that is around 53%. Among the total number of persons who committed suicide 86, 808 (74%) were married people where 64, 534 were men and 28, 344 (26%) were women. This information proves that the rate of suicide in men are greater than in women in India.

The above information clearly categorises the rise of suicide in married men. There are plethora of reasons for the act. Some of the reasons are:

- 1) The shame they go through after being falsely implicated in a dowry harassment case by his own wife.
- 2) The inability to cope up with the society.
- 3) The fear of being made fun off.
- 4) Difficulty in acknowledging the fact the men can be abused too.
- 5) Sometimes the idea of Patriarchy harms men themselves.

II.I) Possible Effects on the Victims

⁹Image Source: Available at <https://www.livemint.com/Politics/YCw8vC0qZUzAYkWSEVXS9N/Suicides-in-India-What-data-shows.html>, accessed on 19-10-2019 at 12:19 p.m.

When such incidences relating to false implications of husbands and his relatives takes place, then the sufferer is not only the husband but the entire family of the husband. There are several cases where the effects of such false cases are grave to the extent that the husband ends up committing suicide.

In an article by Anshul Sehgal¹⁰ '*Section 498A of the Indian Penal Code, 1860 a weapon in the hands of Vamps*', the author records that section 498A IPC covers cases where the wife and her family can file charges against her husband and his family for physical and mental cruelty, this provision is unique as it is not only gender discriminatory but also this legal provision is for women of all ages. The article also states that the number of cases that filed in the Police stations and thereafter in the courts are the main sources of official statistics of dowry harassment cases, also that this law allows women ample and unlimited scope to fabricate evidences and cook up lies in their statements with no penalty of perjury. By this the number of cases registered under such provisions are increasing but the actual number of genuine cases remain unchecked. According to author, the proportion of women belonging to such category where they file false cases are 98%. Out of these 98% of concocted cases in every complaint the daughter-in-law files false charges against 2 women that is the mother-in-law and the sister-in-law who in most the cases are innocent, they are arrested and as a result go through immense harassment and humiliation by lawyers, police and ultimately the society. Therefore, in 100 cases 2 women genuinely benefit and 98% of the rest get away with extortion and perjury.

The victims go in heavy depression as they suffer a lot of mental agony. In the famous Nisha Sharma Fake Dowry Case, where the girl accused the boy and his mother over dowry demand. The case went on for 9 years and in those 9 years the man lost his job along with his mother who was a working in a government school also lost her job over such allegations. They were constantly harassed by the police and has the boy had to suffer imprisonment, which caused him a great reputational loss.

¹⁰Sehgal Anshul., '*Section 498A of the Indian Penal Code, 1860 a weapon in the hands of Vamps*', Available at <http://www.mightylaws.in/579/sec-498a-indian-penal-code-weapon-hands-vamps>, accessed on 18-10-2019 at 01:36 p.m.

In another incident where Mr. Amit Bhandari, who is an advocate from Pune had been falsely implicated under section 498A, upon which he had written a book called 'I was Alive but 498A killed me'. In this e-book he notes down how the system can be very easily manipulated by a woman and that the police along with the judge hold a kind of pre-conceived notion and presumes the man guilty even before the trial starts or even before the accused is proved guilty. The author rights that he lost his father in the process of such humiliating charges and trials and everyday interrogations by the police.

There are several incidences where the woman by filing false charges aims to extort money out of the husband in the name of maintenance.

III. POSSIBLE REMEDIES

Whenever a man is accused under section 498A IPC the person can apply for anticipatory bail. Earlier in the state of Uttar Pradesh the privilege of obtaining anticipatory bail was not available but after July 2019, the application for anticipatory bail has been allowed in the state.

1) **Save yourself first-** A person when suspects that his partner can take such step he may record all conversations in the form of voice, chat, email, letters where the wife has threatened the husband and keep a copy of the same within a safe place. Always have proof that neither you have demanded dowry at any time during or after marriage. Also collect various and whatever proof available to prove that the wife had moved out of the matrimonial relationship without any valid reason. All these evidences will be helpful in obtaining Anticipatory bail, in case the man fears of being falsely charged under section 498A IPC.

2) **Safeguarding the family-** There are hundreds of cases where the whole family is put behind the bars just because of one false complaint. Section 498A has a very wide jurisdiction under which the women can complain against anyone in the family. Even the mother and the father of the husband are not immune. In such a situation the husband can do the following to safeguard his parents and other family members –

Once the FIR is lodged, the man can apply for anticipatory bail or notice bail so as to ensure that the innocent family members are not going behind bars without any just cause.

How the case turns out would totally depend on which state the case is lodged. Different states have different mechanisms to deal with the problems of false cases.

For Instance, in places like Delhi, Punjab, Haryana and Rajasthan the complaint would first be referred to CAW Cell (Crime against Women Cell)/ Mahila Thana). Where attempts would be made for Settlement between husband and wife through mediation, and if no settlement is reached, the case would only then be converted into FIR. At this stage or even before, you can seek Anticipatory Bail or Notice Bail for all your family members to protect them from arrest.

Also in places like Uttar Pradesh/ Uttarakhand, the FIR would be promptly registered but you would get 30 days to settle the case in mediation centre. By which time most victims obtain stay on their arrest from High Court.¹¹

3) Immediately complaint if the woman blackmails or threaten of false allegations- If at any point of time the wife blackmails or threatens to file or accuse the husband and his relatives under false charges under section 498A, immediately file a complaint against the woman. The complaint should mention that police should take necessary actions to stop the wife from making threats and abuses immediately, also the police should be told about the verbal threats and in writing along with available evidence that you are facing blackmailing and mental torture from your wife or from any person who belongs from her family. Filing such a complaint early on can save the man from future trouble if the man or his relatives are the first one to file it.

4) Filing of Restitution of Conjugal Rights (S. 9 of the Hindu Marriage Act, 1955)- If by any chance the wife has left the matrimonial house after blackmailing and threaten to file a false complaint of dowry harassment and cruelty, without any delay file a petition for restitution of conjugal rights mentioning the conditions that she should agree on before she starts living with you again.

¹¹Furtado Rebecca., 'What to do if a false domestic violence case is registered against you', (2017), Available at <https://blog.ipleaders.in/what-to-do-if-a-false-dowry-case-and-domestic-violence-case-is-registered-against-you/>, accessed on 19-10-2019 at 10 a.m.

5) Entering into a Settlement with Wife is not Advised- If the party wants to compromise amongst themselves, it should be done without paying of any kind of wealth (money). If you pay any sum of amount that will only mean that you will indirectly accept the blackmailing and you are in some way guilty. Such actions of the husband will only encourage fraudulent women to do more blackmailing.

If the husband decides to pay or come to a compromise with his wife then entire amount should not be paid till High court or Supreme court have given the final order of compounding the IPC 48A and all offence including the divorce decree. This is where your lawyer's role in negotiations will be critical. You should get the settlement conditions agreed by both parties in writing including her and her relatives. Also get them to file a court statement under IPC-156 that they will not challenge this order in higher courts and that they will take back all the cases filed against you and all your relatives in all the courts. They should get the final instalment of money after all cases and proceedings are withdrawn and closed.

6) Get the FIR quashed- According to Prachi Darji in her article 'Here's what to do in a false 498A Case'¹², the author very clearly states that '*you can also get the false 498A FIR quashed by High Court under Section 482 of CrPC*'. Though it is true that the courts generally are quite reluctant to quash an FIR or interfere in the process of police, but if you have sufficient proof, the court has the power to quash the false 498A FIR filed against you by your wife.

7) Get an Anticipatory Bail- In cases where the accused anticipates that he can be false charged under section 498A IPC and Dowry Prohibition Act or under Protection of Women from Domestic Violence Act, 2005, then he can on prior basis apply for an anticipatory bail.

III. CASES OF MISUSE OF ANTI-DOWRY LAWS

¹²Darji Prachi, 'Here's what to do in a false 498A case' (2019), Available at <https://www.myadvo.in/blog/how-to-prove-a-false-498a-case/>, accessed on 19-10-2019 at 10:38 a.m.

In the case of *Arnesh Kumar v. State of Bihar*¹³, the Supreme laid down guidelines with respect to arrest in cases under section 498A IPC. The Supreme Court laid down:

- All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;
- All police officers be provided with a checklist containing specified sub- clauses under Section 41(1)(b)(ii);
- The police officer shall forward the checklist duly filed and furnish the reasons and materials which necessitated the arrest while forwarding/producing the accused before the Magistrate for further detention;
- The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
- The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
- Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

¹³ (2014) 8 SCC 273
Page | 9003

Further in the case of *Shushil Kumar Sharma v. Union of India*¹⁴, in this case the Supreme Court held in its judgement that ‘The object of the provision is prevention of the dowry meance. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignomy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. 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. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre- conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumption are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that in innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.’

¹⁴ Writ Petition (civil) 141 of 2005

In another case *Rajesh Sharma v. State of Uttar Pradesh*¹⁵, the Supreme Court was approached on the grounds that the court was confronted with a pray for issuing directions on cases relating to misusing of dowry laws and the victimization and harassment of innocent husbands and their relatives, could be stopped. In the case the wife had alleged that the husband and his family members harassed her for dowry while she was carrying a baby and this continuous harassment of the wife caused her miscarriage. When the accused husband was summoned by the trial court, he approached the high court for quashing the trial court summon and the same was dismissed by the High Court of Allahabad. Thus, he present appeal to the Supreme Court. The Supreme Court has acknowledged that there is a gross misuse of penal provisions which was rampant in the society. The Apex Court thus, observed that the misused provisions had to be brought back to their original form in order to curb the violation of human rights of the innocent. The Supreme Court in this case laid down some very effective guidelines:

I) (a) In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.

(b) The Committees may be constituted out of para legal volunteers/social workers/retired persons/wives of working officers/other citizens who may be found suitable and willing.

(c) The Committee members will not be called as witnesses.

(d) Every complaint under Section 498A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.

¹⁵4 AIR 2017 SC 3869.

(e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.

(f) The committee may give its brief report about the factual aspects and its opinion in the matter.

(g) Till report of the committee is received, no arrest should normally be effected.

(h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit.

(i) Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.

(j) The Members of the committee may be given such honorarium as may be considered viable.

(k) It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.

II) Complaints under Section 498A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today.

III) In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord.

IV) If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day.

Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed.

V) In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine.

VI) It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted.

VII) Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

VIII) These directions will not apply to the offences involving tangible physical injuries or death.

In the recent case of *Social Action for ManavAdhikar Forum v. Union of India*¹⁶, the petitioners have approached the Supreme Court under Article 32 of the Constitution with prayers on seeking guidelines to the respondents to create such an environment for the married women subjected to cruelty by their husbands, to create a uniform system of monitoring and systematically reviewing incidents of violence against women under Sec 498-A IPC including their prevention, investigation, prosecution and rehabilitation of the victims and their children. The Supreme Court referring to the prior case of Rajesh Sharma (Supra), issues the following guidelines:

1. The provision of establishment of Family Welfare Committees, as a whole is not in accordance with the statutory framework.

¹⁶ Writ petition (civil) no. 73 of 2015

2. If a settlement is arrived, the parties can approach the High Court under Sec 482 of the Code of Criminal Procedure.
3. So far as clubbing of all connected cases and exemption from personal appearance of the accused are concerned, an application has to be filed either under Section 205 CrPC or Section 317 CrPC depending upon the stage at which the exemption is sought.
4. Director General of Police of each state should make sure that the investigating officers who are in charge of investigation of cases of offences under Sec 498-A be imparted rigorous training with regard to principles stated by this court relating to arrest.
5. When an application for bail is entertained, proper conditions have to be imposed but recovery of disputed dowry items may not by itself be a ground while rejecting an application for grant of bail under Section 498-A IPC.

IV. RECOMMENDATIONS

To stop the increasing rate of misuse of Anti-Dowry laws by wives against their Husbands and their relatives it is important to make them more and more aware of their rights and also ways in which they can save themselves in case such an action is taken against them or is likely to be taken against them.

Another fact that needs to be kept in mind is that Men have become more vulnerable in society and have become more mentally weak as they face such immense mental torture firstly when they are made aware of such a false case have been implicated against him and his family members, and then the entire procedure of investigation and trial leaves him broken. Therefore, a special centre for counselling should be set up where the men victims are counselled and helped to overcome their mental trauma.

As proposed by Mr. Deeptanshu Shukla, the LAMP Act should come into existence and be enacted with immediate effect throughout India.

Rather than Amending the Actual provision, a separate clause should be added in the section where the quantum of punishment should be the same as if the man was found guilty under 498A. The section which mentions 'Woman' should be removed and instead of 'woman' the word 'person' be added. This will not ruin the basic essence of the section and also it will make the provision gender neutral.

The setting up of the Family Welfare Committee as laid down under the case of Rajesh Sharma (Supra), should not be struck off and be reinstated.

National Commission of Men is what the country needs today and this will provide basic support and be one stop solution to the victims of misuse of Anti-Dowry Laws by wives.

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