



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a

professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi, Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



CRUELTY IN MARRIAGE

**LEGAL, SOCIAL AND ETHICAL
CONSIDERATIONS**

Aurthored by-Payal Tripathi

SUBJECT:- LAW OF CRIME

CLASS:- F.Y.LL.B

**Institution- Shri. L.R. Tiwari College of
Law**



BSTRACT

According to Section 498-A of Indian Penal Code (IPC), "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. The offence is cognizable, non-compoundable and non-bailable." This provision has been made to protect female for domestic violence due to dowry (the durable goods, cash, and real or movable property that the bride's family gives to the bridegroom, his parents, or his relatives as a condition of the marriage). In India 24,771 dowry deaths have been reported in last three years, according to the National Crime Record Bureau.

It is surprising to learn that although, this provision was introduced in IPC for a good cause but now it is being blatantly misused by some females to harass their husband and his relatives. In many cases, this has become a new mode of blackmailing, harassment, divorce and revenge. There are myriad instances where the police have arrested elderly parents, unmarried sisters and even pregnant sister-in-laws, without any investigation due to which they have to suffer mental stress, humiliation and agony. In a few cases, the accused husbands or their family members have also committed suicide due to humiliation.

The existing legal provisions mandate that there should be an instant arrest as a result of such complaints, but recently Supreme Court in Arnesh Kumar case passed a landmark judgment that there should be no immediate arrest without investigation. This is merely a preliminary step to check this emerging menace, but there is a long way to go.

This paper discusses the affects of misuse of the provisions of section 498- A by some females in today's scenario who are using this as a weapon rather than a shield resulting in the present pathetic condition of the husband and his relatives. The paper attempts to propose with the help of case laws and statistics that strict guidelines should be issued to check the increasing misuse of 498A.

Keywords: Cruelty, Dowry, guidelines, Law, Misuse.

INTRODUCTION

It is noteworthy that as per Hindu Law 'marriage' is the voluntary union for life of one man and one woman. It is considered to be a sacred commitment made by the spouses towards each other. It is regarded to be the social alliance between two families. According to the Hindu customs and tradition bride's relative gift something as per their wish, capability and happiness to the bride and bridegroom and his family members. With the passage of time, this custom has turned into dowry, i.e. the durable goods, cash and real or movable property that the bride's family gives to the bridegroom, his parents, or his relatives as a condition of marriage. Initially, it was a gift, gradually; it becomes compulsion and demand for marriage. The demand culminated into torture and cruelty at the level of dowry death. Section 304-B of Indian Penal Code lays down that where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage, such death shall be treated as 'dowry death', and such husband or relative shall be deemed to have caused her death. Further, Section 498-A was included in IPC in 1983, for the protection of women against domestic violence and preventing cruelty due to dowry and to allow the state to intervene in this matter.

Section 498A defines, "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 be extended to three years and shall also be liable to fine. The offence is Cognizable, noncompoundable and non-bailable." There is the direct arrest of a husband and his relative without investigation under this offence.

The Sections 498A and 304B of the Indian Penal Code (IPC) as well as the Protection of Women against Domestic Violence Act, 2005, are three closely-related legal and judicial provisions designed to safeguard the interests of married women in India (Achanta, 2015). While the intentions of these provisions are laudable, unfortunately in some cases these safeguards have become a means of revenge, divorce and humiliation by some females. There are many reported cases in which women have used this section as a weapon rather than a shield.

This paper discusses firstly, the nature and meaning of sections 304-B and 498-A of IPC, section 115 of Indian Evidence Act. Secondly, elucidate the rampant increase in the misuse of these sections with the help of data and statistics. Thirdly, it argues that strict guidelines should be evolved to curb its misuse.

Dowry, matrimonial cruelty and the Provisions pertaining to women's protection

Dowry is generally in the form of a payment in cash or gifts given to the bridegroom's family at the time of marriage, which includes cash, jewellery, electrical appliances, furniture, bedding, crockery, utensils and other household items that help the newlyweds to set up their home. The dowry system is thought to put the great financial burden on the bride's family (Anderson, 2007).

In some cases, the dowry system leads to a crime against women, ranging from emotional abuse, injury to even deaths. The increase of dowry death was a major concern issue in India. The payment of dowry has long been prohibited under specific Indian laws including, the Dowry Prohibition Act, 1961 and subsequently by Sections 304B was included in IPC.

Section 304-B of IPC (Dowry death) (Ratanlal, 2008):-

1. Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

2. Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

The cases of cruelty by husband and his relatives were increasing in large number which results to commit suicide, death, burns and trauma which leads to the demand to make laws not only for the dowry protection but also against the cruelty by them. Eventually, in the code by the Criminal Law Amendment Act, 1983 (Act 46 of 1983) section 498A was introduced to deal with the matrimonial cruelty to women defined under.

Section 498A of Indian Penal Code (Ratanlal, 2008):-

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 willful 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.

The section was enacted to combat the menace of dowry deaths. By the same Act section, 113-A has been added to the Indian Evidence Act to raise presumption regarding abetment of suicide by a married woman.

Section 113-A of Indian Evidence Act ((Ratanlal, 2009)

When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Meaning of cruelty and difference between 304B and 498A of IPC

Cruelty is a common essential in offences under both the sections 304B and 498A of IPC held in *Kaliyaperumal v. State of Tamil Nadu*¹ case. The two sections are distinct offences and persons acquitted under section 304B for the offence of dowry death can be convicted of an offence under sec.498A of IPC. The meaning of cruelty is given in explanation to section

498A. Section 304B does not contain its meaning but the meaning of cruelty or harassment as given in section 498-A applies in section 304-B as well. Under section 498-A of IPC cruelty by itself amounts to an offence whereas under section 304-B the offence is of dowry death and the death must have occurred during the course of seven years of marriage. But no such period is mentioned in section 498-A (Goyal, 2011).

In the case of *Inder Raj Malik v. Sunita Malik*², it was held that the word 'cruelty' is defined in the explanation which inter alia says that harassment of a woman with a view to coerce her or any related persons to meet any unlawful demand for any property or any valuable security is cruelty.

Kinds of cruelty covered under this section include following:

- (a) Cruelty by vexatious litigation
 - (b) Cruelty by deprivation and wasteful habits
 - (c) Cruelty by persistent demand
 - (d) Cruelty by extra-marital relations
 - (e) Harassment for non-dowry demand
 - (f) Cruelty by non-acceptance of baby girl
 - (g) Cruelty by false attacks on chastity
 - (h) Taking away children
-

The presumption of cruelty within the meaning of section 113-A, Evidence Act, 1872 also arose making the husband guilty of abetment of suicide within the meaning of section 306 where the husband had illicit relationship with another woman and used to beat his wife making it a persistent cruelty within the meaning of Explanation (a) of section 498-A.

Whether Section 498-A creates double jeopardy?

In *Inder Raj Malik and others v. Mrs. Sumita Malik*³, it was contended that this section is *ultra vires* Article 14 and Article 20 (2) of the Constitution. There is the Dowry Prohibition Act which also deals with similar types of cases; therefore, both statutes together create a situation commonly known as double jeopardy. But Delhi High Court negatives this contention and held that this section does not create a situation for double jeopardy. Section 498-A is distinguishable from section 4 of the Dowry Prohibition Act because in the latter mere demand of dowry is punishable and the existence of an element of cruelty is not necessary, whereas section 498-A deals with aggravated form of the offence. It punishes such demands of property or valuable security from the wife or her relatives as are coupled with cruelty to her. Hence a person can be prosecuted in respect of both the offences punishable under section 4 of the Dowry Prohibition Act and this section.

Misuse of Section 498-A

Though all the provisions discussed above are made for the protection of the women against matrimonial cruelty but gradually in some cases these are being grossly misused by some estranged wives for their personal interest who have used it as an instrument to humiliate and disgrace their husbands and his relatives in some cases.

Section 498-A is non-bailable, non-compoundable and cognizable offence, due to which there is the direct arrest of a husband and his relative by the police on the report of a wife without any investigation. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

There are many cases in which Court after observing the misuse of these provisions has intervened affirmatively and redressed the grievance of the victimized husband and his relatives.

In *Jasbir Kaur v. State of Haryana*⁴, the Court observed, "It is known that an estranged wife will go to any extent to rope in as many relatives of the husband as possible in a desperate effort to salvage whatever remains of an estranged marriage."

In *Kanaraj v. State of Punjab*⁵, the apex court observed, “for the fault of the husband the in-laws or other relatives cannot in all cases be held to be involved. The acts attributed to such persons have to be proved beyond reasonable doubt and they cannot be held responsible for mere conjectures and implications. The tendency to rope in relatives of the husband as accused has to be curbed”

Karnataka High Court, in the case of *State v. Srikanth*⁶, observed, “Roping in of the whole of the family including brothers and sisters-in-law has to be depreciated unless there is a specific material against these persons, it is not right on the part of the police to include the whole of the family as accused”

Supreme Court, In *Mohd. Hoshan v. State of A.P.*⁷ observed, “Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impact of complaints, accusation or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of the sensitivity, degree of courage and endurance to withstand such cruelty. Each case has to be decided on its own facts whether mental cruelty is made out”

The National Crime Records Bureau releases All India Crime data every year. The report titled 'Crime in India' has detailed information on every type of crime registered. This report also has data on a number of cases registered under the important IPC sections and their disposal by courts (Prudhvi, 2015).

Cases Filed under 498A and disposed of by Courts

Year	Total Cases pending trail up to that year	Convicted	Acquitted	Withdrawn	Total cases remaining at the end of year	Conviction Rate of Cases under 498A	Average Conviction Rate of all IPC crimes
2007	267600	6831	25791	6364	228614	21.2%	42.30%
2008	293416	7710	26637	7310	251759	22.7%	42.60%
2009	323355	7380	29943	7111	278921	19.9%	41.70%
2010	357343	7764	32987	6601	309991	19.6%	40.70%
2011	387690	8167	32171	7477	339902	20.6%	41.10%



2012	426922	6916	39138	8775	372706	14.4%	38.50%
2013	466079	7258	38165	8218	412438	15.6%	40.20%



WHITE BLACK
LEGAL

As shown in the figure no.2, between 2007 and 2013, the number of cases being filed under Sec 498A of IPC is on the rise and there is roughly a 10% rise in the number of pending cases each year. The number of cases pending trial was around 2.67 lakh at the beginning of 2007. This number increased to 4.66 lakh at the beginning of 2013, a rise of almost 75% in 7 years (Prudhvi, 2015).

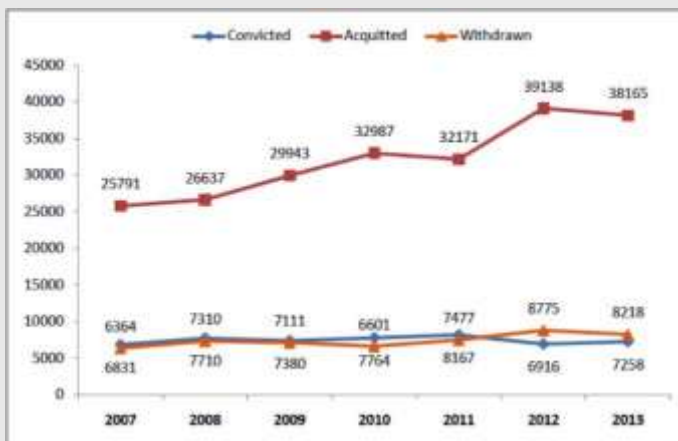
Convictions v. Acquittals

Figure no-2(Prudhvi,2015)

As is evident from figure

no.2, that the number of convictions was more or less close to 7000 cases in each of these 7 years, the number of acquittals increased consistently.

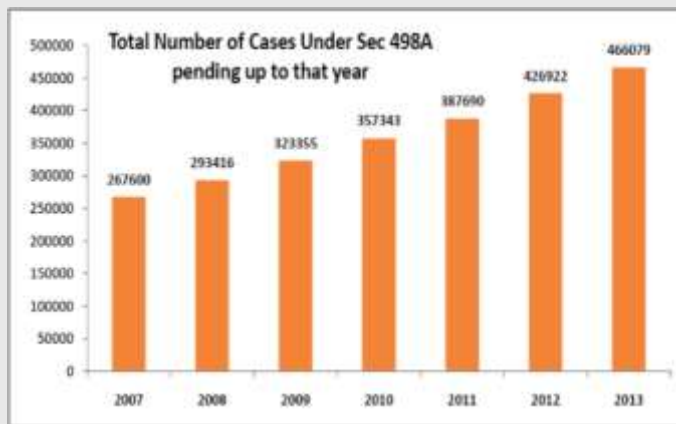
From 25791 acquittals in 2007, this number went up to 38165 in 2013. The number of cases withdrawn was more or less equal to the number of convictions in each of these 7 years.



For every case that is resulting in conviction, 5 other cases are resulting in acquittal while one case is being withdrawn. The net result is that only one out of every 6-7 cases has resulted in conviction

(Prudhvi,2015).

Figure no-3 (Prudhvi, 2015)



As per figure no.3, a total number of the pending case has been increased rapidly from 2007-2013. In these cases, as discussed in figure no.2 that 6- 7 cases are generally convicted,

which means others are not guilty. Yet due to the provisions (cognizable and non-bailable offence) they are arrested without investigation. The amount of agony they face is inexpressible (Prudhvi, 2015).

Landmark observations of the Court on abuse of 498-A

It is generally observed that most of these complaints under section 498- A IPC are filed in the heat of the moment over trivial issues without proper deliberations. There are large numbers of such complaints which are not even bona fide and are filed with oblique motive. In many landmark cases,exemplary observations have been made on the misuse of this offence.

It is interesting to note that this particular provision was made to give immediate protection to women against cruelty but now it is used even tothreat husband and his relative as in the case of *Savitri Devi v. Ramesh Chand & Ors* ⁴, the court held clearly that there were a misuse and exploitation of the provisions to such an extent that it was hitting at the foundation of marriage itself and proved to be not so good for health of society at large. The court believed that authorities and lawmakers had to review the situation and apply legal provisions in such a manner in order to prevent such misuse from taking place. The Court observed, “There is a growing tendency to come out with inflated and exaggerated allegations, roping in each and every relation of the husband. If one of them happens to be of higher status or of vulnerable standing, he or she becomes an easy prey for better bargaining and blackmailing”.

In response to the rapid increase of misuse of 498-A, Supreme Court in *Arnesh Kumar v. State of Bihar & Anr*⁵, directed the state governments to instruct the police "not to automatically arrest when a case under Section 498A of IPC is registered but to satisfy themselves about the necessity for arrest under the parameters (checklist) provided under Section 41 of CrPC". Section 41 lays down a 9-point checklist police to weigh the need to arrest after examining the conduct of the accused, including the possibility of his absconding.

Supreme Court, in the landmark judgment, *Sushil Kumar Sharma v. Union of India and others*⁶, has categorically observed, "The object of the provision is the prevention of the dowry menace. But 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 license 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 framework".

In *Preeti Gupta & Anr v. State Of Jharkhand & Anr*⁷, it was observed, “The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make a serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases”.

It was further observed that “The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The

allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.”

We expect Judiciary to restrain a particular wrong but unfortunately many times instead of acting as a safeguard it becomes ammunition and is distorted by many. All the above observations indicate evidently that there is a considerable apprehension towards the unethical misuse of section 498-A. The anti-dowry law and matrimonial cruelty have become a tool for revenge for wives to use it against their husbands and in-laws, even if the conflict is not over dowry.

An important question arises out of the observations made by various Courts as well as the apex Court in this context, as to what should be the role of the Police, Judiciary and the society to solve this problem. Fortunately, the Supreme Court has come to the rescue of all such families who have been falsely arrested on such charges by giving many directions to amend the Law so that it may be used in a legitimate manner to seek justice and not as a means of revenge.

CONCLUSION

In a broader context marriage is an eternal bond which should be handled carefully. Dowry and matrimonial cruelty is a curse to our society, as many women are mistreated, burned and killed also as a result of this. Undoubtedly, dowry and matrimonial cruelty are unpardonable offence and should be punished severely. Keeping this in view many amendments have been made in Indian Penal Code and Indian Evidence Act. Section 304-B, 498-A and Domestic Violence Act 2015 are some of the major provisions to protect women from any type of cruelty by husband and his relatives. To protect them some provisions were enacted, but in recent times they are being misused as a weapon rather than as shield.

Unfortunately an attempt is being made to unleash a new form of legal terrorism by taking wrongful advantage of these provisions. The resultant criminal trials have lead to immense sufferings for all concerned. Even the final acquittal in the trial may also not be able to wipe out the deep scars of the suffering of ignominy. We have discussed earlier in this paper that women are using this as an instrument to humiliate and dishonor their husband and his relative sometimes even in trivial matters. A large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society.

However, by reviewing the observations made by various courts, in recent times, it is evident that the Courts have shown a deep concern over this issue. In all earnest, firstly, it should be made a bailable offence. If a person is not guilty the principle of natural justice should be applied which encompasses the following two rules (Makhija): -

1. Nemo judex in causa sua - No one should be made a judge in his own case or the rule against bias.
2. Audi alteram partem - Hear the other party or the rule of fair hearing or the rule that no one should be condemned unheard.

Proper chance should be given to husband and his relatives to prove their innocence. This will at least provide an opportunity to the relatives of the husband, especially elderly people and children who might not at all be involved in the rift between husband and wife and thereby save them from the resultant mental, physical and emotional trauma.

Secondly, it should be a compoundable offence, so that if the parties decide to either settle their disputes amicably to save the marriage or decide to put an end to their marriage by mutual divorce, they should be allowed to do so. This will allow space for estranged spouses to start their marital life afresh, if they so desire.

Thirdly, as directed by the Supreme Court no direct arrest should be made without investigation. An arrest warrant should be issued only against the main accused and only after cognizance has been taken. Husband's relatives especially children, female relatives and the elderly person should not be arrested until there is specific evidence of cruelty inflicted by them.

Fourthly, if any false case is identified then stringent action should be taken against the female making those allegations. The act of appellant in filing a false complaint case and getting her husband and other in-laws arrested clearly amounts to cruelty, and hence she should be penalized strictly.

Lastly, proper guidelines should be given to the police and investigation officers, so that they do not mishandle such sensitive cases. Both the Legislation and the Judiciary must make every effort to see that the innocent are no longer victimized. It is also imperative for the legislature in the light of the pragmatic realities to take into consideration the informed public opinion and introduce relevant changes in the existing provisions of law to ensure that there is no misuse of 498A of IPC.

REFERENCES

1. Achanta Pushpa (2015), Are Indian women misusing Section 498A?[online], <http://www.freepressjournal.in/weekend/are-indian-women-misusing-section498a/568637>, Accessed on 28/08/2016.
2. Anderson, Siwan (2007). "The Economics of Dowry and Brideprice". *The Journal of Economic Perspectives*. 21 (4), p. 151–174.
3. Goyal Akshay(2011), Legally India[online],<http://www.legallyindia.com/News-andcurrent-affairs/Section-498A-I-P-C-Its-Use-Misuse>, Accessed on 30/08/2016.
4. Makhija Ashish, Principles of Natural Justice [online], <http://www.lawpact.org/uploads/PRINCIPLES%20OF%20NATURAL%20JUSTICE.pdf>, Accessed on 01/09/2016.
5. Prudhvi (2015), Conviction rate for Cases registered under Sec 498AIPC is among the lowest for all IPC Crimes,[online], <https://factly.in/conviction-rate-for-cases-registered-under-sec-498a-ipc-is-among-the-lowest-for-all-ipc-crimes/>, Accessed on 31/08/2016.
6. Ratanlal and Dhirajlal (2008),The Indian penal Code, , 30th edition,p.917

7. Ratanlal and Dhirajlal(2009), The Indian Evidence Act,
1872 , 21st
edition, p. 560



W H I T E B L A C K
L E G A L