



FROM SECTION 498A IPC TO THE BHARATIYA NYAYA SANHITA A CRITICAL SOCIO-LEGAL ANALYSIS OF MARITAL CRUELTY

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ABSTRACT

The laws and social issues related to domestic violence in India are looked at in depth in this important paper. It investigates the relationship between the 1860 Indian Penal Code (IPC) and pertinent sections of the Bharatiya Nyaya Sanhita (BNS) of 2023. The BNS's legislative history and modifications are scrutinized to determine the extent to which these laws safeguard married women from financial, emotional, psychological, and physical maltreatment, as well as to guarantee procedural justice for accused individuals. This paper explores the history of anti-cruelty laws, the manner in which courts have interpreted them, the identity of those who are concerned about their use, and the impact of societal and cultural factors on their implementation. The paper employs a doctrinal and socio-legal methodology that references legislative provisions, court precedents, and contemporary legal advancements to ascertain whether the BNS enhances the legal foundation for combating marital maltreatment or merely preserves the protections of Section 498A. To achieve justice, equality, and the preservation of women's rights in marriage, it is necessary to implement systemic changes, legal literacy, and judicial understanding.

Keywords: *Section 498A IPC, Bharatiya Nyaya Sanhita (BNS), Marital Cruelty, Domestic Violence, Women's Rights, Criminal Justice Reform, Socio-Legal Analysis, Gender Justice.*

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1. INTRODUCTION

Indian marriage is a sacred institution that is founded on trust, mutual respect, and companionship. Nevertheless, numerous women have been subjected to financial, mental, emotional, and physical abuse by their spouses or other family members. Domestic abuse, a recent social issue, infringes upon the fundamental rights and dignity of women. Dowry demands, domestic violence, and other forms of coercive control are prevalent as a result of the situation. The Criminal Law (Second Amendment) Act, 1983, was responsible for the introduction of Section 498A of the Indian Penal Code. The increasing prevalence of cruelty directed at married women motivated this action. The implementation of laws that criminalized family or spouse cruelty was a significant stride toward safeguarding women from domestic abuse. The state is committed to addressing gender-based violence, as it regards domestic abuse as a societal concern rather than a family matter.

The Indian Penal Code's Section 498A has safeguarded victims of abuse and harassment since its inception. Nevertheless, it continues to be a contentious provision of the penal code in India. Advocates have underscored the law's ability to prevent the deaths of brides, dowry harassment, and marital violence. Nevertheless, critics express concern regarding arbitrary detentions, fraud, and abuse. Several critical regulations have been implemented to ensure that victim rights are balanced with the protection of accused individuals from unwarranted judicial suffering, as a result of the varying perspectives. The scope of Section 498A discussions has expanded beyond criminal law to encompass legal rights, family dynamics, and gender equality. The scope of the discussions has surpassed criminal law.

The Indian Penal Code was replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS) in India's extensive criminal law reforms. This has a substantial impact on the legal treatment of marital cruelty charges. The new legal framework has maintained conjugal or familial cruelty, despite the necessity of reevaluating its legislative

objective, procedural safeguards, practical implications, and breadth. Given that the Bharatiya Nyaya Sanhita has replaced Section 498A of the Indian Penal Code, it is crucial to evaluate the extent to which it safeguards married women from procedural injustices and abuse. A critical socio-legal analysis is required to ascertain the extent to which the new statute is consistent with the changing dynamics of marriage in contemporary Indian culture, constitutional ideals, and gender equality.

2. THE STATUTORY CONTEXT AND THE CRITERIA OF CRUELTY

The concept of cruelty in Indian criminal law was developed through legislative and judicial interpretation. Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023 (previously Section 498A of the Indian Penal Code) safeguard married women from financial, emotional, mental, and physical violence.

In accordance with the law, cruelty encompasses:

- **Physical Cruelty:** The lady is experiencing agony, suffering, or health risks as a result of intentional harm.
- **Mental Cruelty:** Abuse encompasses behaviors that induce substantial mental or emotional distress, threats, compulsion, or denigration, as well as persistent verbal abuse.
- **Dowry-related Harassment:** The intimidation was employed to compel the woman or her family to comply with illicit demands for dowry, money, or property.
- **Conduct Likely to Cause Serious Harm:** conduct that poses a threat to the woman's physical and mental health or could result in suicide.
- **Objective Standard for Determining Cruelty**

A neutral test is employed by Indian law to ascertain whether a husband's actions endanger or irrationally cohabit with his wife. This criterion evaluates all parties and specifics. Numerous variables are assessed by courts, including:

- The severity of the defendant's actions.
- The frequency and duration of maltreatment.
- The socioeconomic background, education, and previous relationships of couples are evaluated.
- the wife's mental and physical health as a result of their activity.
- General marriage scenarios are preferred over specific ones.

This impartial method preserves consistency while acknowledging the distinctive characteristics of each marital situation.

Judicial Interpretation in *Shobha Rani v. Madhukar Reddi*

In the case of *Shobha Rani v. Madhukar Reddi*, the Supreme Court determined that cruel behavior encompasses actions that induce a reasonable fear of peril among cohabiting individuals. The court has deemed repeated dowry solicitations to be mental abuse, which is equivalent to physical assault.

Regulations were established by the court in the following manner:

- Mental and physical anguish are components of cruel treatment.
- Rare events have a lesser impact than consistent behavior.
- Dowry demands induce severe mental distress.
- The husband's actions must genuinely instill a sense of peril within the household.

Judicial Interpretation in *State of Karnataka v. L. Muniswamy*

Karnataka v. L. is the matter. The Supreme Court in *Muniswamy* determined that systemic intimidation is a severe method of enforcing dowry and property regulations. Consistent intimidation or threats are fundamental components of the offense.

- The court underscored the subsequent primary points:
- Serious consequences may result from persistent and systemic harassment.
- Harassment that solicits dowry or unlawful property may lead to criminal liability.
- Threats intimidation, or coercion that are repeated are considered criminal.
- The cumulative effect of abusive behavior is more significant than that of individual incidents.

Judicial Interpretation in *B.S. Joshi v. State of Haryana*

The Supreme Court rendered a decision regarding B.S. High Courts have the authority to withdraw proceedings under Section 498A of the Indian Penal Code in order to preserve marital harmony and justice, as per Joshi v. State of Haryana, which was established under Section 482 of the Criminal Procedure Code.

There were several prominent concepts, including:

- Compounding is prohibited by Section 498A of the Indian Penal Code.
- Using their inherent authority, the High Courts have the ability to halt proceedings.
- In order to preserve the legitimacy and voluntariness of marriage settlements, it is imperative to promote them.

Reunification of spouses should not be hindered by criminal activity.

Evolution under the Bharatiya Nyaya Sanhita, 2023

Sections 85 and 86 of the 2023 Bharatiya Nyaya Sanhita prohibit the practice of severity in marriage. The Act safeguards married women from financial, emotional, mental, and physical maltreatment, regardless of the evolution of section numbers.

The following are notable accomplishments of BNS:

- The following legal principles are applicable under Section 498A of the Indian Penal Code.
- The intensity has an impact on an individual's financial, emotional, psychological, and physical well-being.
- relying on the judicial interpretations of Section 498A of the Indian Penal Code.
- Prioritize the protection of genuine victims before making unfounded or derogatory accusations.
- The advancement of a criminal justice system that is both gender-equal and equitable.

3. THE CRUSADE AGAINST AUTOMATIC ARRESTS

Mechanical Arrests under Section 498A IPC

After registering a complaint under Section 498A of the Indian Penal Code, the spouse and his relatives were wrongfully imprisoned, resulting in the filing of numerous maltreatment charges. The legal system dictates that arrests should only be conducted when they are both necessary and justified.

Joginder Kumar v. State of Uttar Pradesh

The US Supreme Court determined in Joginder Kumar v. State of Uttar Pradesh that arrests are not determined by legality. Paper 21 mandates that law enforcement must have a legitimate justification for safeguarding individual liberty.

D.K. Basu v. State of West Bengal

Court of Appeals of the D.K. Prevents arbitrary detention and safeguards the rights of suspects. Police detention and arrest requirements were established in Basu v. State of West Bengal.

Preeti Gupta v. State of Jharkhand

In Preeti Gupta v. State of Jharkhand, the Supreme Court expressed apprehension regarding the misuse of Section 498A and the propensity to incriminate distant relatives without sufficient evidence. The Court recommended that legislators reevaluate the Paper in light of evolving socioeconomic circumstances.

Arnesh Kumar v. State of Bihar

In Arnesh Kumar v. State of Bihar, the Supreme Court abolished the practice of immediately detaining individuals for seven-year offenses. Police were required to maintain arrest reasons under Section 41A of the Criminal Procedure Code, which is presently included in the BNSS, 2023. Additionally, it necessitated that magistrates independently evaluate incarceration.

Satender Kumar Antil v. Central Bureau of Investigation

In the majority of cases, the US Supreme Court has determined that bail should be issued in lieu of arrest, provided that statutory notification is adhered to. Satender Kumar Antil v. CBI upheld this premise. Liberty is protected by this approach.

4. EXCLUSION OF GENERAL AND OMNIBUS ALLEGATIONS

A typical issue in marriage disputes is the ability to charge a network of extended family members in a broad "omnibus complaint" without naming specific overt conduct.

In *Geeta Mehrotra v. State of Uttar Pradesh*, the Supreme Court determined that family members should not be penalized for trivial alibis in a marital dispute unless they participate in psychological or physical abuse, following a comprehensive review. The review served as the foundation for this determination. The court determined that the legal system is being clearly abused by the practice of bringing in-laws from afar.

In *Rashmi Chopra v. State of Uttar Pradesh*, a comparable case, the assault allegations against the husband's married sisters and maternal uncle were dismissed due to insufficient evidence of harassment.

Kahkashan Kausar v. State of Bihar has been the most significant omnibus case in recent times. In criminal cases, the Supreme Court mandates that the defendant's in-laws be identified. The court emphasized that the permissibility of generic claims is coercive, as it necessitates the spouse's extended relatives to undergo the challenging trial process due to their familial relationship.

A lawsuit concerning a brother-in-law and sister-in-law who resided in separate households was dismissed by a judge in the case of *Abhishek v. State of Madhya Pradesh*. The judge was of the opinion that the case was a criminal grievance against a family that was disguised as a marital dispute.

5. TERRITORIAL JURISDICTION AND THE CONTINUING OFFENSE

Territorial Jurisdiction in Cases of Child Abuse and Neglect

Issue of Territorial Jurisdiction

It is a common procedural issue in marital abuse cases for a wife to file a complaint from her parents' residence after being evicted. It has the potential to generate numerous complications. This may result in disagreements regarding the appropriate party to handle the complaint: the police or the court.

Y. Abraham Ajith v. Inspector of Police

The Supreme Court applied a narrow interpretation of *Y. Abraham Ajith v. Inspector of Police* did not fall under the geographical jurisdiction of the court under Section 177 of the Criminal Procedure Code, as the parents were not abusive.

Sujata Mukherjee v. Prashant Kumar Mukherjee

The Supreme Court in *Sujata Mukherjee v. Prashant Kumar Mukherjee* acknowledged a continuing offense and determined that courts in both jurisdictions may employ Section 178 of the Criminal Procedure Code in the event that the wife's parents' residence has been injured by cruelty.

Rupali Devi v. State of Uttar Pradesh

The Supreme Court's decision in *Rupali Devi v. State of Uttar Pradesh* established that marital violence results in emotional distress for a wife while she is at her parents' home. Section 498A violations may be resolved by the wife's courts subsequent to her departure from the marital residence.

Transition to the Bharatiya Nyaya Sanhita, 2023

Sections 85 and 86 of the BNS

The Indian Penal Code Section 498A is replaced by Sections 85 and 86 in the Bharatiya Nyaya Sanhita, 2023 (BNS), which provide a more precise definition of cruelty. It is maintained that the maximum sentence is three years in prison and a fine.

Definition of Cruelty

Section 86 BNS classifies cruelty into two categories:

- activities that are designed to intentionally cause harm, endangerment, or induce the woman to contemplate suicide.
- Illegal demands for the woman's valuables were intended to intimidate her or her family. This was the objective of the intimidation.

Procedural Safeguards under the BNSS

The BNSS balances victim protection and misconduct protection by mandating a preliminary inquiry, restricting unnecessary arrests for offenses punishable by less than seven years of imprisonment, and incorporating the principles from *Arnesh Kumar v. State of Bihar*.

6. CONCLUSION

The criminal justice system of India was advanced by the Bharatiya Nyaya Sanhita, 2023, which supplanted Section 498A of the Indian Penal Code, 1860, with new domestic abuse laws. Nevertheless, the persistence of domestic violence, dowry-related harassment, and gender-based discrimination underscores the necessity of public awareness, judicial understanding, victim-focused support systems, and rigorous enforcement. Legislative initiatives intended to enhance the accessibility and efficacy of criminal law have been unsuccessful. Justice must be administered appropriately to prevent legal victims from being exploited. The Bharatiya Nyaya Sanhita's effectiveness in marriage is contingent upon its application, in addition to its legal obligation to advance women's rights, dignity, and equality.

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