

# **A SURVIVOR'S GUIDE TO IPC 498A**

## **Introduction:**

People don't know what to do when a 498A case is registered against them. For those of you who may have an inkling of the impending danger, and are looking for information, I hope to shed some light on how to survive the initial onslaught, which is also the most harrowing and critical part of this ordeal known as IPC 498A.

Man or woman, young or old, regardless of marital status, if you have an estranged 'Bahu' (daughter in law) in your family, whether she is living/lived/never lived with you, you can be jailed under IPC Section 498A based on a complaint in the police station. The objective of the 'Bahu' and her parents is to subject you and your family to an ordeal designed to break your will and ensure that you give in to their demands.

A case will go on for 3 to 7 years. Be prepared to fight. Also be prepared to lose some of your most productive years professionally while you are fighting this. Be prepared to lose your hair or watch it turn gray before your time. Be prepared to spend money and lots of it. Be prepared to shed a lot of tears.

I am sorry to say this, but above all, be prepared to watch your parents grow old before their time. Prepare for the worst-case scenario with regard to your parents.

If you are innocent, you will eventually prevail. I assure you of this.

If you apprehend being 498A'd, don't just stand there like a deer caught in the headlights. Recognize the situation for what it is. From the people you talk to and from the online portals you visit, you will learn that this is a law to combat dowry harassment and etc, etc, etc. I'll ignore this and cut to the chase.

## **IPC 498A IS AN EXTORTION RACKET**

The sooner you realize this, the faster you will be able to take informed decisions in your first steps to fight this. It will take years, but you will prevail. Each case is unique. But they all have a common thread running through them.

I have outlined the common scenario and **this is not legal advice** but more of a set of general suggestions, observations and opinions based on experience. When taking action, please do so, after seeking the advice of your lawyer.

I am assuming that you are a middle/upper middle class, law-abiding guy who is having marital issues. Your parents may have retired or are close to retiring. You may or may not be part of an extended family living under the same roof. Your spouse may have warned you that she will file a 498A against you for some reason or the other. You or your parents may have assets in some form or another such as cash, salary, property etc. The family of your spouse may be politically connected. If you have kids, you will have to deal with the additional agony of being separated from them.

Now that we have the assumptions of your situation out of the way, let's get to the action.

Let's start with the motives and instigators.

There are several motives for a woman to file a 498A. These are:

- **Money:** The great motivator. A 498A always leads to great terms for a fat settlement.
- **Vengeance:** Hell hath no fury like a woman scorned. She will have her revenge and your family will collectively bear the brunt of it. The 498A Wives have a soft corner for their MILs and their SILs. Prepare your mom and sister(s) for special treatment.
- **Guilt:** She's done something wrong, maybe even committed adultery and got caught in the act. She wants to cover it up with a dowry harassment case to garner sympathy and to provide cover for her guilt. It also puts her in a good position to bargain from.
- **To Marry The Boyfriend:** This is a new trend whereby she will file a 498A just to force you into settling the issue with a chunk of cash and to marry the boyfriend.
- **Vengeance + Money + Guilt:** Do I need to elaborate?

In most cases the instigators are the parents. If her mother was the instigator, you've married into a family where the mother is a shrew and the father maybe subservient to her. The woman you married thinks that you should be her slave, because her mother dominates her father. She will file the 498A in retaliation for her failure to dominate you.

If her father is the instigator, the motivation is your money. This is a much easier case to handle, as he needs your money. If the case backfires, he will have a 498A-filing daughter on his hands and marrying her off the second time round will be tough. Potential matrimonial matches are always wary of these filers of 498A cases. If this situation applies to your case, once you withstand the initial onslaught, they will come scurrying for a compromise. Trust me on this.

I need a term to refer to these women who **abuse** IPC Section 498A. I have settled on **498A Wives**. If you object to this, talk to the **men and women** who had members of their **family** jailed due to the provisions of this law. I know that I can't refer to them as Savitris.

498A is a perfect tool for extortion and/or to wreak vengeance on you and your family. The main ingredients that go into making it an extortion racket are:

- The involvement of the heavy handed Indian police force in a domestic dispute.
- The involvement of the overburdened and unregulated lower courts and the convoluted and lengthy Indian justice delivery system.
- The lack of penalties for filing frivolous cases or for committing perjury.
- Political/police influence from the other side. If this is a factor in your case, I kid you not; you are in for an ordeal that will require extra doses of fortitude, courage and patience to overcome.

All these factors will be used to leverage money out of you or subject you and your family to the kind of harassment that can only be defined as torture. The **Supreme Court** has condemned such cases as "**Legal Terrorism**".

Here is the timeline of events:

- The police will take the accused to the station under the excuse of '**counseling**'.
- The accused may be arrested and produced in the court or held in the police station.
- Bail will be applied for. May or may not be granted.
- Attempts for mediation will be made to settle the case.

- Case will go on.
- If a settlement is not reached, the accused will be exonerated after long drawn trials ranging from **3-7 years** or more.

It's time to elaborate.

### **Preparations:**

If you sense a 498A heading in your direction, here are a few things you can do:

- Get a criminal lawyer with a good reputation.
- Apply for anticipatory bail. Get it for all members of your family. Though it may cost you upfront, this cost is trifling to the amount you may need to spend if you are arrested, as it will involve bribes.
- Talk to people. Call SIF. Talk to volunteers. Get on the Internet and research.
- Have cash handy on you at all times. Rs 50,000.00 should be a minimum.
- If you are unable to secure an anticipatory bail, move fast and get 3 applications for bail ready, one for the lower court, district court and the High Court of your state. This will be your plan B. Plan B needs to be activated in the event of arrest.
- Again!! **TALK TO PEOPLE!!!!**

Getting an anticipatory bail should be a priority. This is your first and last line of defense. If you are out on AB, you've pretty much won the case, as you avoided the terror that the other side will unleash on you, by using the muscle of the Indian Criminal Justice System.

Read on to get an idea of what awaits you if you are unable to get anticipatory bail.

### **Arrest:**

Please understand this. You are about to get thrown into a **criminal** case. This is very different from a **civil** case such as divorce. In a 498A case you are presumed to be **guilty until proven innocent**. You must be prepared to be treated on par with criminals. I am not joking!

The police will arrive at your door and will attempt to take you and members of your family to the police station. The police have a tendency to arrive in the early hours of the morning while all of you are groggy with sleep. Friday mornings or the day before public/court holidays are another favorite time the police choose to get you. They do this, as they can prevent you from being presented before a magistrate, effectively depriving you of a chance to apply for bail on the same day. This will allow them to hold you in custody over the weekend and really tighten the screws. Be assured, the police have been bribed to their gills. That is the norm rather than the exception. They will try to convince you that you need to accompany them for counseling/arrest. Whether they say counseling or arrest will depend upon your social and economic status, but the objective is the same. The plan is to get you to the police station.

Try to fight on your turf, which is your home and neighborhood. Don't surrender this advantage easily. How they deal with you will depend upon your social and economic status. Procedures and policies get thrown to the wind in the frenzy to get you to the station.

If they say counseling, tell them you will arrive later at your convenience with your lawyer. Stick to your ground and resist. The police personnel who show up at the door will give you their word and tell you that they will lay down their life to protect you. Believe them at your peril. At this point they

will say they need to arrest you if you don't accompany them. That makes things easier as it now gives you grounds to assert your rights.

While dealing with the police, maintain a calm demeanor. Do not show your fear. You should be comforted by the fact that you are in the hands of the Indian Police and not in the hands of the Gestapo or the SS. They have no right to hurt you or touch you in anyway. You need to be firm and polished in dealing with them. You are protected by the constitution. At that time and place, this may sound idealistic and lofty. Trust me, you are protected and the police know it. Remember this, the uniform they wear is meant to protect you. You will be intimidated and threatened. Maintain the upper hand. Never stop smiling!

If their intimidation gets out of hand, gently tell them that you are a citizen and that you have rights and any excesses on their side will be reported to the Home Secretary of the state or the DGP. The Home Secretary is an IAS officer and their ultimate boss, above the DGP. Once they understand that you will stand and fight, they may treat you with respect and with a little luck, you may avoid arrest.

### **Dealing With The Shock:**

The first thing you need to deal with is the shock you will experience when the police show up at your door. **Sheer terror and Disbelief** is what you will feel. This is accompanied by a sense of betrayal. The woman whom you've coddled and cuddled, the mother of your children (if kids are involved), has filed a fake criminal complaint against you and members of your family. The shock is followed by panic and a sense of helplessness. You will feel rage when your parents/siblings are arrested. There will be a scramble to call relations and friends and find a lawyer to arrange for bail. There will be an absolute sense of bewilderment. There may also be temptation to run out of the back door. That's fine. Hold on. Don't give in to panic. Think.

If you are an **NRI** and if you evade capture by the police by some miracle, do your best to live to fight another day. As an NRI, you are a particularly juicy catch. Since you must have left the country a while ago, you won't have local connections and you are presumed to be **RICH!!**. Everyone associated with the case believes that your money is rightfully theirs. They will be relentless in pursuing you. The only hope you have is a tactical retreat and a hope that you will return to fight another day. I will add a section dealing with NRIs very soon. Check for updates.

If you are an US/UK/Canadian **citizen**, stand and fight. Flaunt your citizenship. Tell them that they cannot arrest you unless the Min of External Affairs is notified first and the US Consulate as well. These are directions from the Supreme Court. Get in touch with your Consulates ASAP. They know about this racket.

Try to remain **calm**. Think. Delay. Sit in the potty to compose yourself if necessary. Call your neighbors as witnesses. Don't worry about your prestige; you will gain greater respect if you are able to avoid getting caught up in this extortion racket. There has been an instance when the neighbors convinced the police and they left. Video tape the situation to the extent possible. Use a cell phone or a digital camera. Try to record as much as the conversation with the police as possible. Keep your wits about you.

### **Standing Up For Your Rights:**

The police may have the **power** to arrest you, but they also need the **justification** to arrest you. **An arrest is an exception, not the norm**. The Constitution of India has given you rights that no one

can take away. One of them is your **Right to Liberty**. You will find Supreme Court Judgments on the powers of the police to arrest. Download them and use them as the basis to avoid arrest.

Try your best to assert your rights and be treated **lawfully**. The police will argue that they have a right to arrest you and they will threaten to go to the nearest police station and file a complaint against you stating that you are not behaving as per the law. Ask them to try it. Be assertive and aggressive. Show them copies of the SC Judgments. They will argue that Dowry Harassment is a heinous act etc, but there are judgments that **define harassment**. (I will have them up here in time. Check back frequently). You can also point out that there are significant other requirements that need to be fulfilled for an arrest.

These are:

1. The case involves a grave offence like murder, dacoity, robbery, rape etc., and it is necessary to arrest the accused and bring his movements under restraint to infuse confidence among the terror stricken victims.
2. The accused is likely to abscond and evade the processes of law.
3. The accused is given to violent behavior and is likely to commit further offences unless his movements are brought under restraint.
4. The accused is a habitual offender and unless kept in custody he is likely to commit similar offences again. It would be desirable to insist through departmental instructions that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby clarifying his conformity to the specified guidelines

Your **Liberty** is guaranteed by the Constitution. I am really interested in seeing how a grandma or a granddad, kids, your parents and siblings can fall into **ANY** of these categories.

The police will say that **498A is a cognizable offence**. You need to tell them, that yes, you know that. By cognizable, it means they have to take action. They should take action and it should be along the guidelines of the Supreme Court judgments. Here is what former **Chief Justice Of India M.N. Venkatachalliah** says:

“No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person’s complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter.”

Ask them to give you a reasonable amount of proof that they have done some investigation. Ask them to show you the complaint. Ask them to name the complainant, her address, her age, the name of her parents, place where the alleged harassment occurred. What kind of harassment was it? How long did it last? You can go on till they show you adequate proof that they have done their job and need you for additional info. At that point you can be reasonable and negotiate. Under no circumstances should you accompany them to the station on a Friday.

I am confident that if you stand up for your rights and make them read the SC judgments, they MAY just walk away. In quite a few cases, it is the police who advice the complainant of necessary ingredients for an FIR. There are a lot of conditions that need to be fulfilled, such as jurisdiction, the

duration and place of harassment etc. The police advise the complainant of all these things needed in the complaint to fulfill these conditions and cook up the complaint.

It takes confidence, courage, and quick wittedness to confound the police. You can do it. All you are doing is standing up for your rights.

If for any reason, you are unable to dissuade the police from arresting you, then hand them the copies of the judgments and get some sort of a proof that you have done so. A picture on the camera phone will do. You may be able to nail them on charges of contempt of court later. Tell them that it is no idle threat. The police are under intense pressure to get you and as many members of your family as possible. It's the money they've been paid that is the motivation. Not justice.

If are you compelled to accompany them, do so with dignity, but, first, activate **plan B**. Call your lawyer and ask him to prepare to file a bail application in the lower court of jurisdiction. Try your best to keep members of your family out of it. They will use your family as a pawn in this game. Do your best to protect the women and children. They have arrested over 300 children in 498A cases. Breast-feeding mothers, children, grandparents have been arrested. The statistics from the Home Ministry speak for themselves.

The policemen who show up at your door will be underlings. Wait till you meet the Police Inspector. The fun will start after you get to the station. So be prepared for the intimidation that will ensue. The main drama will take place in the Station House. I am checking up on the procedures that need to be followed for cognizable offenses like 498A. I will post them here. Check back frequently.

A woman can file a case in any part of India against you. If given an opportunity, she may file in the districts or in another city. If she does that, the harassment factor just went up by 10 times for you. Imagine running around the courts and police stations in a place you have no roots. Also imagine the intimidation you can be subjected to if you need to fight on a turf of her choosing. Think about the expenses involved in travel and lodging. There is a judgment from the **Chennai High Court that may help in this situation as it deals with issues of jurisdiction**. I have posted it and it may apply in your case.

If all your efforts to stand off an arrest fail, then you will need to go to the police station. It may be in the city or in the districts. Here are a few things you can do to prepare for arrest and detention.

- Take some snacks and water with you.
- Take your cell phone and its charger. Make sure you have the number of your lawyer stored.
- Mosquito repellent (for mosquitoes, I mean the real ones, not the cops ☺)
- Pack a set of clothes handy to be delivered fast if needed. Pack for 5 days if approached on a Friday.
- Take a book. The Bhagavad-Gita, Bible or the Koran, or something of interest to keep you engaged. You will grow close to you your god in these trying times.
- Take a notepad to list your feelings with timelines. It may come in useful once you are out or in a court when you finally nail her.
- Inform a trusted friend.
- Get the name of the police inspector and his contact info such as cell, phone # in the station, etc.
- Find out where they are taking you. The police station address and phone numbers.
- Get the names of the SP, ASP and any other superior officer and their contact info.

- Try to get a copy of the FIR. You have the right to know what you are being charged with.
- Keep some cash handy. It will come in useful.

### **In The Police Station:**

Once you get to the Police Station, you will meet the intimidator, the inspector. Before we get into this, let me give you an idea of what you are walking into.

The Indian Police force was structured to enforce the will of the white sahibs on the natives. The only change, the police force has undergone in these years of independence, is in the color of the sahibs. The white ones are long gone; the brown ones have taken over.

The Police Station will be an intimidating place. Walking into it is a humiliating experience. It was designed to be that way so don't feel humiliated. It will be dimly lit, dirty, with riff raff floating in and out. You will see a dark room whose door is made of steel bars. Yes! That may very well be your abode for the weekend. You and the members of your family will be seated on an old bench or made to stand if it gets too crowded. You will be made to wait for hours. You will be stared at. Lechers will stare at your sister and the younger women of your family. As men, we are biologically and culturally built, to be the providers and protectors of our families. This will be one of the most difficult aspects of this situation to bear. Bear it in silence. Don't lose your temper. If you can get away by being aggressive, do so, but don't do anything to jeopardize your situation. Think. Your day will come.

The Police know that all of you are accused in a 498A case. They are salivating. The police make an average of Rs.10,000.00 for each 498A case, and that is a **very low** estimate. They will also get a cut if their mediation leads to a settlement.

Once in the station, do not expect any kind of a courtesy from them. No one will listen to you. Your lawyer, if you have one with you, may or may not be effective. You can forget about bathroom facilities. The women will be the hardest hit. You may be fed some food from the roadside food stall. I just hope that you won't end up feeling sick from eating it. Expect to spend around 8 hrs in the station. Rely on the snacks and water you have, or have them delivered through friends.

This is when his Highness, the Inspector of Police will condescend to talk to you. He will be rude and uncouth. He may ask you a few questions. Actually, these won't be questions, but more along the lines of asking you to own up to taking dowry. He will be your primary adversary. He is the intimidator, the goon and the bounty hunter rolled into one. If you have connections you may get out at this point.

If he perceives that you are easy pickings, he will try to arrest you after performing a semblance of **counseling**. Try to appear tough. Put on an act. Give him the SC judgments and try to avoid arrest by asserting your rights.

There is a chance that all of you may end up being let go at this point since 'counseling' has been done. Consider this to be round one. Round two will definitely lead to arrest. Apply for anticipatory bail. Do your best to get it. Again, do your best for your parents. This is your fight. Try to limit collateral damage. If you fail at any stage, do not indulge in self-recrimination. Focus on the task at hand.

A lot of the procedures are ignored and there is no uniform procedure laid down. If there is a uniform procedure laid down, I am yet to find it, trust me, if it is out there, I will find it.

Since you've been picked up on a Friday and since you've been made to wait all day, it will almost be evening and the courts will be closing so you won't have time to apply for bail. You and the men of your family will be held over the weekend, but the women of your family may be allowed to leave. If you try to reason with the police, they will brush you aside and threaten to subject you to third degree treatment. The Inspector will do his best to arrest all of you and may leave one of you out.

Here is the reason why. If he arrests all of you, then there won't be any one to negotiate a settlement with. He needs one of you outside.

The Inspector is disobeying the orders of the Supreme Court. The more the harassment he subjects you to, the better the chances are that if you complain against him, he will be nailed. Try not to be intimidated. He is a law enforcement officer. Not a goon. Remind him of it. Be firm. You may be quaking inside, but try not to show it. All of you will feel exposed and helpless and to a certain extent, you will feel violated. This is normal. You are in the hands of the Indian Criminal Justice System, which was designed by the 'Firangis' to intimidate. Don't dwell on the moment and instead look into the future when you will be free. It may be the same day or in a few weeks. But free, you will be. Stay **STRONG!!**

I also **STRONGLY** suggest that you **DON'T** bribe the police to go easy on you. Remember this, there are 58,000 498A cases filed each year. More than a lakh of people get arrested. This scene is being played out across the country. So act differently. Surprise them. If the police want to hold you, let them. It is a jail not a concentration camp. Make all kinds of demands. Throw the law book at them. They are expecting you to behave in a civilized manner. Never resort to foul language. Be non-cooperative but in a gentle way by asserting your rights. Know your rights. Be friendly and try to earn their respect with your behavior.

Here is a way to alleviate the stress. If you feel scared or intimidated, joke with your parents and siblings. Try to stay in command of the situation. Above all, remember that you have rights. And heck, this is just a police station! These guys are uncouth and unscrupulous! Make sure that you confound the police with your arguments. **DO NOT PAY. DO NOT GIVE IN.**

You have the right to have a friend or relative close to you during your arrest. The Supreme Court has passed orders on detainee rights. Download the judgment and use it. Assert that right. They need to follow a whole host of procedures. These are detailed in this judgment.

The investigating officer will make a halfhearted attempt to look around, if that. The police are just trying to make a fast buck. So play on their greed, but don't give them anything. Just keep your cool. Be polite and arrange to have a lawyer with you ASAP! You have the right to remain silent. It is your right. Exercise it. Be stubborn. Don't admit to anything. **SMILE!** Exchange pleasantries and keep your mouth shut.

### **The Demands:**

This is the time when the first demands for cash will be put forward. It will be substantial depending upon the assets you have. I expect that it will be twice what you can afford. They will attempt to "settle" the case right there in the police station. The police will bargain for you. They will attempt to mediate. Be assured, the police will get a cut. Just don't give in. Don't admit to anything. The less you say the better. Whether you are guilty or not is for the trial court to decide.



### **Intimidation:**

Expect the police to subject your dear ones to intimidation. They will subject them to verbal abuse and threats of physical injury. There have been cases of people, women too, being strip-searched. My young sister was threatened with charges of prostitution filed against her, unless she revealed my whereabouts. She stood firm and bore the brunt of the harassment for me. They will shout and abuse you. Expect your mother and sister(s) to be addressed as sluts and whores. Bear it with patience. **DO NOT LOSE YOUR TEMPER.** Your day will come.

Remember this. No policeman can hold a woman in a police station over night. If they do, they will be in trouble and they know it. Use that to your advantage and get the women out. Get them to contact the volunteers of SIF India and you will get help there on the next steps to be taken.

The police are subjecting you to this pattern of threats and intimidation to terrorize you into submission. This is a racket where the police, the spouse, the in laws, and the lawyers get a cut. The other side will spend money and they are expecting to recoup their investment from you. In most cases it's the police who hire themselves out to do the intimidation and mediation and they will be harsh in their dealings. The system is designed to break your will and terrify you and your dear ones into submission. You are promised that if you cough up the cash, they will let your dear ones go and the case will be withdrawn. It will then follow up with the threat that if you do not agree to these terms and the case ends up in the courts, your dear ones will need to trudge to the court for years to come. Threats will be made about jail time if the conviction takes place.

Here is the real deal. **IPC498A is non-compoundable.** That means it cannot be withdrawn except in the High Court of the state of Andhra Pradesh. So how can they withdraw a non-compoundable case? They have their ways and means. One of them is a prayer to quash the case in the High Courts.

### **Deception In Custody:**

Once an arrest is affected, the cops will play all sorts of tricks to keep you locked up. You will be given excuses and told that they will hold you and/or members of your family for 24 hours and then yet another 24 hours and then another 24 hours and the next thing you know, they will be transferred to a jail. A jail is different from the lock up in the police station. Once in the jail, the cell phone will be taken away. Communications will be cut. Before you know it a week passes. And it will be the start of the weekend. There is nothing more you can do except wait for Monday. A lot of bribing goes on in the background to delay and prevent you from applying for bail. I really hope that you get a good criminal lawyer. This is a criminal case, so get a criminal lawyer.

Once you are taken into custody, you will be hitting a brick wall. The courts are the only place you can go to get bail and get out. It is almost guaranteed that you will be taken into custody on a day before a court holiday. It is an agonizing experience. For the first time, you will realize what you have gotten yourself into. There is nothing anyone can do. If you are inside, your family will bear the brunt of it. If you are outside and your family is inside, both of you will bear the brunt of this.

In some cases the public prosecutors are hand in glove with the police. The way this system works is you and/or members of your family are held in a jail. The PP won't show up for the bail petition hearing or he will oppose it vehemently. The next thing he will do is he will have the date of next hearing set to as far a date away as possible. Ultimately, during this time, all of you will be in a state of panic. So the police will come out with a formula. It will involve money. Miraculously, the PP will no longer be an obstacle. Be prepared for this.

There is an insidious trend emerging. The husband, conventionally referred to as A1, is arrested. Some magistrates do not grant bail unless the parents surrender. This is happening in cases where there are connections involved and hanky panky going on with these magistrates. There is also a trend where the magistrates defer orders till the next day and then deny bail. Before you know it, a week goes by. Watch out for this. I do not know of any remedies except to file in the High Court once the bail petition is dismissed. But that is a battle for your lawyer to fight and this is what plan B entails. File in the High Court the moment you hit an obstacle in the lower court.

I hope your lawyer is executing plan B and filing away bail applications in all the courts. The procedures differ by state. I will update this section with the tricks that are played here. Check back.

### **Coping With Your Emotions:**

Be prepared for a roller coaster ride of emotions of hope and despair. You need to handle the situation with calm and patience. Think of the victims of the concentration camps. Think about the young men who died to give us our freedom. Just hang on. Stay strong. Do not despair.

Try to snap out of the state of disbelief that you will fall into. I am sorry, but the helplessness you will feel is gut wrenching. I can't describe it. The cops will reassure you. Don't trust them. The cops are inhumane. They will prey on your helplessness like vultures. Expect no mercy from them. Everybody around will be looking to make money. The expectations will range from Rs10 notes to Rs1000 notes.

Remember this. If you have been taken into custody, the state is responsible for your safety and well-being. They have disobeyed the **ORDERS** of the **SUPREME COURT** by arresting innocents and without sufficient grounds for justification. At all times, you have the **RIGHT** to know where your dear ones are being held. The pressure will be intense and your ability to think will diminish considerably. This is the intended effect of the whole process.

Relax. Start thinking. Ask questions. Get details. Keep notes. Stay sharp. Do this with vengeance.

All along, be aware of the fact that the police are violating your rights. They know that you and members of your family pose no threat to anyone. They know that they have no justification for an arrest.

Here is the reality. You were all easy targets. The police didn't need to do a lot. All they needed was an address to swing by and pick up people who had no warning about what was going to hit them. The police have been feasting on the rich pickings that are victims of a 498A. The police didn't need to expend any energy to capture some moms, grandmas, aunts, dads, brothers, sisters, uncles or children, in the quiet of their home, oblivious to the ordeal that awaits them

There is a chance that all of you may be remanded if produced in the court. This is a part I am not clear about No definitive procedures anywhere. They can legally hold you in jail for 60+ days without trial. But they won't do so. They need to justify why they are depriving a citizen of their right to freedom. But expect to be held for a period of more than two weeks at the least. People have been held for longer periods.

While in remand/custody/district jail, take each day at a time. **Treat it like a forced vacation.** Get into a routine. Befriend the people around. Stay cheerful. Have prayer meetings in the evenings. Good will pays dividends. Be polite and don't let anyone see your anguish. Remember this, you are in the custody of the Indian state. Should anything happen to you, heads will roll. Make sure that someone or the other stops by, to keep your morale up. Try to read books. Note down your feelings

in a time line. The food will be okay and your routine will be regimented. It **will** be a **harrowing** experience. You will be under intense pressure to give in and pay up. It's all right. Just hang on to yourself and this will pass. Once you get out, you will feel stronger and more determined to fight this case. This experience will rekindle the fire in you to fight back.

### **The Turn around:**

Society at large considers the jailing of a family under false charges to be a low blow. The sympathy factor will now shift in your favor. You will gain respect if you don't give in.

You will be urged, cajoled and threatened to accede to their demands. The police will advise you to settle and will attempt to mediate. There may be other intermediaries as well. The heat will really be turned up on you. Under no circumstances should you concede. They are turning up the heat for a reason and the reason is your money. They will hound you to get it. It is an ordeal and it may last a few hours to a few months. Just hang on. Like I said, they will do all they can to break your will, and this is for a reason.

Here is why. The beauty of a 498A lies in the fact that the police and the other party have a narrow window to get you to cough up the cash. And this window of time will last until you are out on bail. There will be intense pressure to settle the case prior to this juncture. Withstand it. If you hold on now, then you will get the biggest prize for undergoing all this. You are now eligible for **divorce on the grounds of cruelty**. The Delhi High Court has recognized that filing a false 498A is an act of cruelty. Download the judgment. Ditching the 498A Wife has just gotten easier for you. There are other advantages.

These are:

- The police will lose interest in your case. The other side will have to keep bribing them to keep them moving and they will eventually run out of the cash. These police are lazy and will only go a certain extent before they give up. They will also run at the first sign of trouble.
- The other side will come to their senses. They will realize that the plan has backfired and they have a 498A daughter on their hands. No one will come forward to marry her again. Her sister(s) may eventually run off with the milkman or the rickshaw walla as they risk remaining spinsters. Any sisters in law she may have will turn against her in time. Her brothers may not get married again. Think about this. Would you be willing to send your sister/daughter into a home where there is a woman who has quarreled with a decent husband and mercilessly filed false cases against him and his family? How safe would your sister/daughter be in a home like that? How safe would a guy and his family be, if the sister of the woman who filed a 498A enters a house as a bride? It also says a lot about that family that they did not discourage her from doing so. Morality is in short supply here.
- The other side will realize that if you engage a smart lawyer, they will need to run around the courts for a while afterwards. They will feel the pressure to settle.
- There have been spates of judgments from the Delhi High Court that have dismissed these cases on various grounds.

Bail will be given in 99% of the cases. Once you get out, you are through. There is a chance that you will get conditional bail. Be patient. The conditions can be relaxed in time. From here on, it's your lawyers' job to guide you. Hope you get a good one. I have enclosed a few bail orders of the Delhi High Court. Give these to your lawyer; it may help with his arguments.

Don't feel disheartened. A 498A can be beaten with patience and planning. In most cases the charges filed will be blatant lies. Lies don't stand up to hard scrutiny. You will prevail and I know many guys who have beaten these 498A Wives back, having them beg for mercy within a year of filing the 498A.

#### **Post Arrest:**

I am sure that you never believed that you'd see your siblings or parents arrested. Well, thanks to the 498A Wife, it's happened. One of the most difficult things you will ever do, will be getting a grip over yourself and making sense of what had happened.

Get a grip over yourself and **don't** try to make sense of what had happened. How can you expect a moron to think or act logically? This is a vendetta and nothing more.

As soon as you are out on bail, get back to work, don't dwell on this traumatic experience and try to pull your family together. Make sure that each and every member of your family gets busy and does something to occupy themselves. Move on. Be cheerful about what you underwent. Don't let her think that she has you beaten. Take care of your parents and put on an appearance of being strong and unflappable to them. A period of unease and a sense of being violated will ensue for months. Be strong, slowly but surely, it will dissipate and life will return to normal.

As time goes by, you will get stronger, the worst is over. Once out on bail, you will be dealing with the judiciary. The police won't dare get near you.

The reality is, after an arrest, you will feel like you've been reduced to nothing, that you are nothing and you have achieved nothing. Your confidence and self-esteem take a huge hit and there will be an urge to curl up in a corner. Don't give into this. This is precisely what they want. To bring you to your knees, wear you out and get your money. Rise UP above all this. Pull yourself together and fight back. If you see them, **SMILE!** Don't give them the joy of seeing you suffer or getting a reaction out of you. Never let them see your tears. You are not the first guy to face a 498A, though I do hope that you will be the last.

I don't get mad, I get even and I urge you to do the same. Your time will come. Till then prepare the groundwork for retaliation and do the things you love to do, biding your time and drinking some fine wine. The judges and the courts know that the law is being abused. In time, the tide will turn in your favor. There is just a chance that the courts may start imposing penalties for abusing the law.

#### **Things You Can Do:**

- Keep a copy of all the judgments I've enclosed. You may just be able to escape by using them.
- Apply for dispensation from personal appearance for the immediate family in the court. You may get it.
- Split your case from that of your family. If they are out, they are no longer capable of pressing your hot buttons.
- Get the women in your family to file complaints with the National Commission for Women. Here is the [link](#). If the link is inactive, mail them a [letter](#), CC the [Home Ministry](#) and drop a note to the [PMO](#). You can also email this [committee](#) about your 498A experience. But, ensure that you submit the complaint on behalf of the women in your family who were victims of IPC498A. Address the letters to the heads or Chief Secretaries at

each of these institutions. Follow this with an RTI. Trust me, when the wheels of justice in India turn, it is an awesome sight to behold!!

### **Fighting Back:**

Think carefully on how you will retaliate. Here are some things you may want to do:

- Think about sending the IT guys after them if they claim to have given you dowry or they call it Sthreedhan. Inform the Income Tax guys through a court order about the claims of money given to you. Here is a link to the [location of offices](#) by state. If you file a complaint, follow up with an RTI. I've enclosed the judgment by **Justice Dhingra** about reporting these kinds of complaints to the Income Tax authorities.
- Get your lawyers to file complaints against them in the police station or a writ petition in the court for admitting to giving dowry. Giving dowry is also a crime. I am basing this on the judgment of **Justice Dhingra**. If they admit to not giving you dowry under this pressure, then be assured you can nail them in a perjury case. Get a your lawyer to pursue this angle. If the police refuse to accept your complaint, get a court order for them to do so. Check the website on info about **FIRs**. Logic dictates that they will accept the complaint as they can extract bribes from the other side. This is one of the **fastest ways to settle** the case on your terms.
- Do not compromise as long as the 498A is on. Ask them to withdraw it before they make any attempts to negotiate a settlement. Be unyielding in your stand. They have more to lose than you do. With a 498A daughter on their hands, these morons are running out of time and options. They need to dump her on some pitiful man. They need your money to buy the other guy and recoup the investment made in the 498A case. As time goes by, the age of the 498A daughter will become a factor. It gets difficult to unload her as time goes by.
- Keep an eye out on the matrimonial sites. A surprise may await you there. And it may very well have you in splits ☺
- If she filed a 498A to force you into a divorce in order to take off with the boyfriend, file an RCR (Restitution Of Conjugal Rights) and refuse a divorce until this gets sorted out. You will have her on the defensive immediately. Talk to SIF volunteers about this strategy.
- Never take the 498A Wife back again. Let her rot in her parents' home. I assure you, she is a burden they will be unwilling to bear! It will break their family.
- Get the women in your family to file complaints in the Mahila Thanas in the event that they are threatened by anyone from the other side. They are meant for women, not just for daughter in laws. This may help in warding off a DV Act later.
- Wish your 498A wife and her parents a long life. They need to repay your tears, with interest.

### **Filing Complaints:**

The police play a big part in this extortion racket. The good news is that these are policemen, and they are subject to a lot of rules and regulations. If the harassment and intimidation get out of hand, you can complain about the concerned officer to the Home Secretary or the DGP of the state you live in. I agree that it is a little difficult to reach them, but try. Persist. You will be able to gain access

to them. Once you get an appointment, be prepared with your complaint, ready to submit on the first meeting. These men are IAS and IPS officers and in most cases, they are capable, decent individuals. Make sure that you respect them and their time. They know about the abuse that is going on. One hint. Get the women in your family to file the complaint, starting from the point when you seek an attendance with the Home Secretary.

Here are some suggestions on filing complaints.

- Be absolutely factual in your complaint. Do not embellish. Do not exaggerate.
- Do not attempt to settle scores with officers who treated you decently, but were compelled to do their duty.
- Before you see them, write up the complaint in a timeline or a sequence of events. Be as accurate as possible. Get it reviewed by your lawyer. Jog your memory for details. Be accurate. Do NOT add anything in there that is not factual. There will be temptation to introduce extraneous events into the complaint. Resist it.
- When the machinery of the state moves to address your complaint, it will place the burden of proof on you. Be prepared for the stress that will follow. The inquiries can be taxing. Be patient. Action will be taken.
- Never put anything in your complaint that will damage your credibility. The state is listening to you. Don't lie to it.
- Request them to let you know the outcome of the inquiry. Tell them you will exercise your right to information by filing an RTI in a few months if this is not done.

#### **Lawyers:**

Lawyers make a huge difference to your case. You must look for a lawyer who is smart, competent and has integrity. Integrity is the most important quality here. Some lawyers in India have been selling their clients out. Never go for one who advises you to compromise. I had two of my friends who were burned by this. If any of these lawyers say compromise, exercise your judgment about their motives. Try to find a lawyer who is an insider. Make sure that it is someone who knows the court system and its' internal workings. Integrity is of primary importance. Do your research. Talk to others who have been through a 498A. Interview several of them. Here is a hint. Go with the one who gives you the brutal truth. You are looking for a lawyer, not a therapist.

#### **The Police:**

I have been very harsh in my description of the Indian Police. I have a reason for this. I want you to be prepared to meet the proverbial dirty cop, the brutal officer, often depicted in movies. That is the kind of officer that we had to deal with. He was shunted out after he was hauled up by the higher ups. A little investigation by the police can reveal the truth. Instead, knowing what awaits the victims, they never investigate. They settle the case if you pay them. Why can't they settle the case on the basis of Duty and Dharma and a thorough investigation?

The police force is an underpaid, ill treated organization. They are constantly under pressure, and they are asked to accomplish a lot, while given meager resources to work with. I have a lot of respect for the men and women who do their best under these conditions. There is always a chance that you will meet an honest, upright police officer. I hope you do. There are cases where the officers and constables have walked away after taking one look at the accused. There are also very decent police inspectors who will treat you with courtesy and do all they can to help you. All the same, be prepared for the worst. The Indian Police Force has many outstanding officers. A majority of the [IPS](#) officers

are gentlemen. Do your homework and approach them for help. I have always admired an IPS officer from the state of Andhra Pradesh. Here is the [link](#) to his website. Here is another [link](#) to an article by B Raman. Here are some stats on [casualties](#) suffered by the police nationally.

### **Court Judgments:**

The police have the power to arrest you, but they do not have the **RIGHT** to arrest you. They need to **justify** an arrest. The Supreme Court of India says that an arrest is an exception, not the norm. This judgment particularly applies in the case of a **cognizable** offence. Under the 498A, the Police are meant to act when a complaint is filed. Act, does not equate to arrest. There is a distinction that the police will not acknowledge, as there is way too much money to be made in a 498A case.

Justice Dhingra recently dismissed a petition opposing bail orders in a 498A case. He ruled that the dowry prohibition act be enforced fully and that the charges should be filed against the complainant for giving dowry. He also stated that the complainants should be investigated by the IT guys for claiming to have given so much wealth without disclosing the sources of income.

Ensure that you have a copy of all these judgments with you so that you can shove it in the face of those goons who attempt to arrest you. Tell them to read it and respect your rights or they will be willfully ignoring the orders of the Supreme Court of India. This is known as contempt of court and it carries stiff penalties. Recently, a few babus from Chennai were hauled up for contempt of court. I've enclosed that article so that it may enable you to educate the police on the consequences of contempt of court. I've highlighted sections of interest in some of the judgments. Memorize these judgments. You should be able to quote them from memory. The intent here is not to disobey the law.

**The intent is to ensure that you are treated in accordance with the law.!!**

### **Conclusion:**

IPC 498A was introduced to protect women. It has morphed into an extortion racket. Sadly, the women who are the real victims can't get justice as the courts are clogged with the cases filed by the 498A Wives. The people, who abuse this law, are committing a crime by throwing all of you into the slow and corrupt Indian Criminal Justice system. The only way out is by paying up or by taking a stand and fighting a long drawn battle. A domestic issue is being treated as a criminal offence. The lawmakers have exposed innocent citizens, entire families, to attacks by packs of salivating dogs.

The law requires the police to take action, but the police equate action to an arrest. This needs to change. The police need to realize that they are law enforcement officers, not goons for hire. It's about time that sanity is restored.

No attempt is made to alert the 498AWives about the consequences of abusing this law. They file a case and the accused are put through hell. Under 498A, the definition of "Woman" is narrowed down to the daughter in law. The women of your family such as mothers, sisters, and sisters in law, grandmothers, aunts and nieces are not considered to be women. The 498A Wives harbor a lot of animosity towards their mothers-in-law and sisters-in-law. Your mother and sister(s) will be the hardest hit. They are paying the price for sharing your blood. There is no way to protect them unless you stand up for their rights. There is no quick recourse to justice. There is no one to turn to. The stories are heart rending.

The argument that is trotted out is that women are being burnt for dowry. Dowry deaths have remained constant over the years. Okay, what does that have to do with the abuse of this law?

498A is the nuclear option in settling relationships. All it does is mutually assured devastation. This is another reason that this is used in conjunction with a divorce case. If a guy files a divorce case, invariably, he gets hit with a 498A. The 498A Wives that file this case aren't warned about its consequences and it ends up hurting them the most.

As a victim, you need to rely on yourself and fight your way out. I want you to transform yourself from being a victim to a **warrior**. I want you to turn the tables and have them on the run. I wrote all this hoping that with the judgments of the Supreme Court in hand; you may be able to do just that. I am hoping that you empower yourself with the information I've given.

The harshest and most stressful time will be when you are dealing with the police. If you are able to hold yourself together during this time, you will win. It is an ordeal and a harrowing experience. There is no easy way out, on the flip side you can give in and live in misery with a 498A Wife. Why don't you let her parents have that pleasure?

Time has a way of revealing a lot of things. We are yet to see the aftermath of the 498A abuse era. Human nature will be at play here. No family would like to have their daughter living with them, unless, she is a real victim. If she is, she **may** be respected and cared for. I agree that is simplistic, but this is my opinion.

In the case of a woman who files a 498A just to extort cash, or harass her husband and his family, there is a certain disdain with which she will be treated by her family and society, especially if the plan backfires. Be assured of this, she will never get married again. She and her parents who encouraged her will pay for this. There will be a lot of bitterness within her. She will take it out on you while the 498A is going on. You are not being prosecuted under 498A; you are being **persecuted** in its name.

None of us likes to be alone and even the strongest amongst us will feel a pang of loneliness. As guys, we are better equipped to deal with loneliness. It is a completely different issue for the 498A Wives. They are condemned to live alone. They had it all and they blew it and they know it. Again, keep an eye out on the **matrimonial** sites. You may just end up on the floor with laughter.

Stop by and see her ten years from now. If she is still single, remind her of the places you took her to, of the car she used to be driven around in. Remind her of the restaurants you dined her in and the house she could call her own. Ask her if she likes living life without a gentle, caring husband.

Deep down, they all know that they made a mistake by abusing IPC 498A.

### Some Statistics:

These are statistics from an article and were obtained from the home ministry. I think they are from 2005.

“According to data provided by Ministry of Home Affairs, there were 58,319 registered cases and 134,757 people underwent arrest under 498A and A and Dowry Prohibition Act. That is on average 2.3 people were arrested in every complaint of woman. There were 358 children and 4,744 senior citizens arrested. Out of 129,655 cases, approximately 18 per cent (23,337) were not charge sheeted and hence suffered only because these acts are non-bailable”



## **HT Article On Contempt Of Court:**

*Disobedient babus face stern action, says SC*

[15 Feb, 2007 0111hrs IST TIMES NEWS NETWORK]

The anger over a creeping contemptuous tendency among bureaucrats boiled over on Wednesday with the Supreme Court severely reprimanding two IAS officers from Tamil Nadu who failed to implement its July 2006 order for re-fixation of seniority of registration department officials.

The unconditional apology by the bureaucrats — commercial taxes secretary M Devraj and inspector-general in registration department K Muthuswamy — who were facing contempt proceedings, failed to pacify a Bench comprising Justices A R Lakshmanan and Altamas Kabir. "We will not tolerate such officers who flout orders of this court with impunity," the Bench said, issuing a warning that officials found disobeying or not implementing court orders would be dealt with sternly. It continued, "Of late, it has become a tendency among IAS officers to disobey Supreme Court orders because they think that they are so big that they need not implement orders."

### **A Little About Me:**

This is not a fictitious story. I have obfuscated my details to cover my tracks. But the rest is factual.

I know why 498A was legislated and I am not against it. What I am against is the abuse of 498A where every petty marital dispute becomes a criminal dowry harassment case, a weapon mercilessly wielded against a family by subjecting them to the might of the law enforcement forces of the state.

I divorced my wife after I had enough of trying to hold the marriage together. She filed the 498A several years after the divorce. I escaped arrest, but they got their hands on my family. There was nothing I could do. I was in tears for most of the time.

My family always treated her with kindness. If she had to take it out on me, she could have restricted the 498A to me. Why take it out on my family? Regardless of what I felt, I refused to budge and stayed put. From the time of the arrest we were asked to cough up Rs. 50 Lakhs (\$100K USD) to withdraw the case. There was nothing I could do. They bribed every one. I guess this is what it feels like when a person is kidnapped and held for ransom.

She was spiteful, foolish, cruel, and insecure, and she had absolutely no self-restraint. If you want to know why I divorced her, this is why. You have it in writing.

Dad was held over the weekend, but they had to let the women go. They were called in again and harassed to reveal my whereabouts. That is when my unmarried sister was threatened with being charged with prostitution. They did this, thinking they had political cover. Unfortunately for these idiots, one of my sisters' friends is the daughter of a senior IAS officer. You can guess what followed next.

With the police out of the picture, 498A became another hassle of life. We needed to run circuits around the courts initially, now our lawyers take care of that. We'll get out eventually.

In the meantime, my dear 498A Wife is living with her parents. I hope she is enjoying her stay there. It's going to be a long one.

**Volunteer Helpline:**

- Ashish : 9911119113,
- Swarup : 9810611534
- Rajiv : 9891369616
- Bangalore:80-65334135
- Kolkata : 033-25347398/25217318
- Mumbai: 9224335577 / 9869323538
- Ahmadabad:9825365816
- Hyderabad:09848280354, 9989146466
- All India Helpline Number: 91-09243473794 (24 Hours)

**Sources:**

- Faith Belied: Prof Som K Shah.
- [Judis.nic.in](http://Judis.nic.in) : Court judgments can be obtained from here.
- Newspaper articles.
- Websites and Numerous blogs on the net.
- Victim stories.
- My own experience.

**Disclaimer:**

The contents of this document do not purport to be any legal advise, but only a set of opinion and observations put together in a simple, understandable format. Any suggestions made in this document are based on experience only. Please consult your lawyer before deciding to take any action based on it. The writer disclaims all liabilities, legal or otherwise, that may arise in this regard for any reason whatsoever.

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