

# **The Silent Tears of Shattered Families**

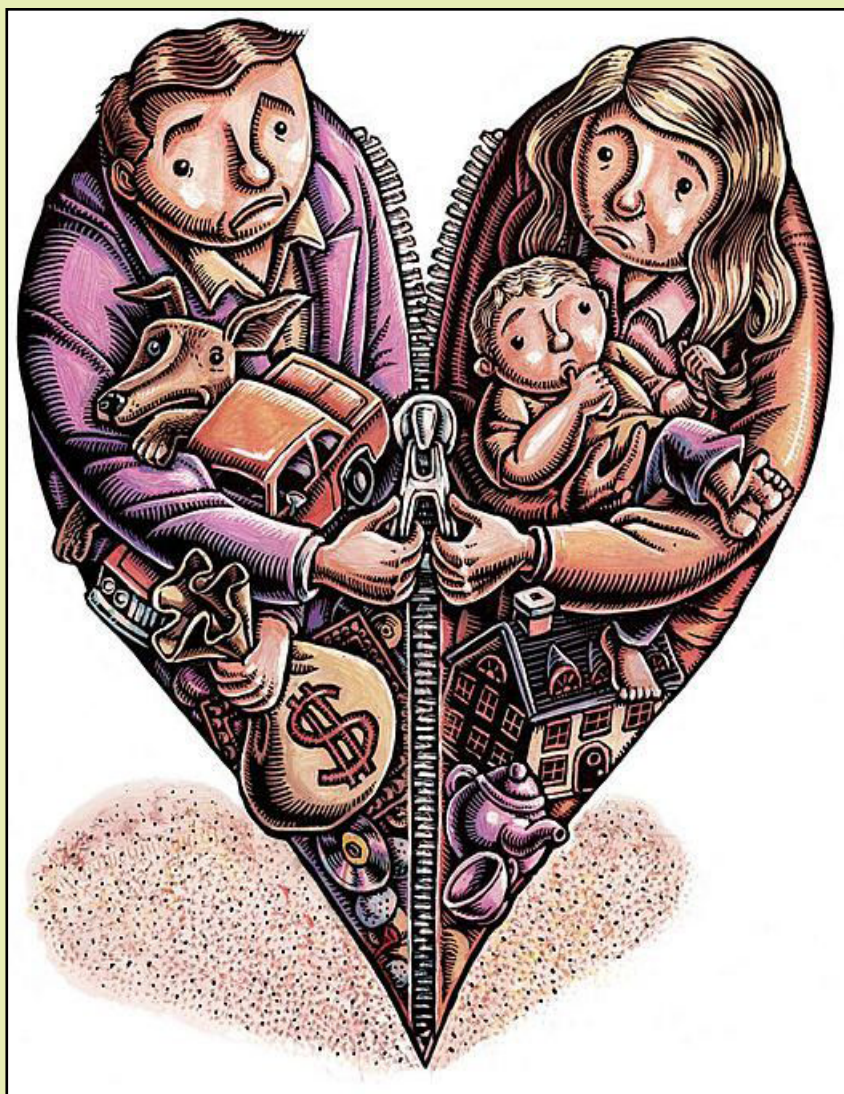
## **The Ugly Reality of Dowry Law - IPC - 498a**

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*An investigative report by*

**RAKSHAK**

**Fighting barriers to Justice and Equality**



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**“Some of the falsely accused have committed suicide after being jailed, unable to bear the social consequences”**

**“ Unconstrained, this social evil is threatening the foundation of the Indian family system”**

## EXECUTIVE SUMMARY

The Supreme Court of India says, **“But by misuse of the provision (IPC 498a - Dowry and Cruelty Law) a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin’s weapon”**. Laws originally meant to protect from the dowry menace are being misused by urban ill-intentioned, unscrupulous women and their families as “an assassin’s weapon”.

There is a rapidly escalating social evil in Indian families, namely the misuse of the Dowry and Cruelty laws (Criminal Laws), which were originally meant to act “as a shield” for the protection of harassed women. Nowadays, the educated urban Indian women have turned the tables. They have discovered several loopholes in the existing Indian judicial system and are using the dowry laws to harass all or most of the husband’s family that includes mothers, sisters, sisters-in-law, elderly grandparents, disabled individuals and even very young children.

**We are not talking about the dowry deaths or physical injury cases** but about dowry harassment cases that require no evidence and can be filed just based on a single-sentence complaint by the wife. With an approximately 60,000 such accusations per year, about 200,000 people are directly affected by these false accusations. The number of such cases has increased by about 100% in the last 10 years and by more than 15% in just the last two years. This poorly formulated law is inviting unscrupulous people to file false cases, and causing the imprisonment of innocent people without investigation. These innocent people undergo stigmatization and hardship even before a trial in the court of law which leads to immense emotional, physical and financial trauma. Unable to bear the harassment, the loss of reputation and the social consequences of being implicated in a false criminal case, some of these falsely accused husbands and their elderly parents are committing suicide.

Despite the recommendations of the Supreme Court of India and Justice Malimath Committee that the legislative arm should modify the laws such that the innocent are protected, the suggested amendments to the law have been largely ignored. Unconstrained, this social evil is threatening the foundation of the Indian Family system.

We are a large group of several thousand families unwilling to succumb to Legal Terrorism, with a belief that **truth shall prevail**.

## 2. INTRODUCTION

### What is Section 498a of the IPC (Indian Penal Code)?

Section 498a of the IPC is a criminal law in which the wife and her family can charge any or all of the husband's family of physical or mental cruelty. This law is unique to India as it not only discriminates based on gender (man Vs. woman), but also discriminates against women based on their relationship with the husband. Typically, the charged family members in these cases include:

- Mostly women of all ages (unmarried, married and pregnant sisters of the husband, his mother and sisters-in-law, elderly grandmothers and aunts)
- Other maternal and paternal relatives and even young children in the family.



**“For every complaint filed by a woman, there are generally twice as many or more women who are accused although the married couple may have never lived with any of the people mentioned in the criminal complaint”**

For every complaint filed by a woman, there are generally twice as many or more women are accused although the married couple may have never lived with any of the people mentioned in the criminal complaint.

IPC-498a is

- **Cognizable** – The accused can be arrested and jailed without warrant or investigation
- **Non-Compoundable** – The complaint cannot be withdrawn by the petitioner
- **Non-Bailable** – The accused must appear in the court to request bail

The accused are presumed guilty, and for all practical purposes, the burden is on the accused to prove innocence in the courts. The FIR is typically an imaginary story, running into many pages, with absolutely no supporting evidence. It typically takes about 7 to 8 years for the accused to prove their innocence in the courts. Due to the overwhelmingly large number of false cases, the conviction rate in these cases is close to zero. The delay in the provision of justice amounts to the denial of justice.

**There is no penalty for the misuse of IPC 498a, and after acquittal of the accused, the courts are reluctant to entertain defamation and perjury cases against the falsely testifying witnesses.**

### Why do people misuse IPC 498a?

- **Legal Extortion** – Get-rich-quick-scheme to extort large amounts of money
- **Prior Relationship** – Wife has a prior relationship, and cannot get out of it. She marries to satisfy her parents, and then misuses the 498a law in order to obtain a divorce
- **Adultery** – Women who indulge in adultery use 498a as a bargaining tool
- **Domination** – Wife wants the husband to abandon his parents and siblings, and have total control over his finances and social behavior
- **Custody** - Deny the father and his family access to their child(ren).
- **Fraudulent Marriages** - in which the bride (and her



family) hides her education level or mental health; and when is justifiably asked to release the person who has gone into marriage without knowing the full facts; she files a false 498a case

### **What do the courts, governments and Non-Government Organizations (NGO) say?**

- The Supreme Court and High Courts have acknowledged this 'misuse' as a growing menace in the society and have recommended the legislature to amend the law
- Justice Malimath committee recommended that IPC 498a be made bailable and compoundable.
- The US State Department has issued a travel warning regarding the misuse of dowry laws in India, and highlighted the fact that Indian courts require large sums of money to settle such cases
- The Canadian Government has issued a similar warning
- The WHO has explicitly mentioned that 498A is one of the biggest reasons for elder abuse in India.
- Many women's organizations, including several State Commissions for Women, have acknowledged the misuse of these laws and have recommended similar protection for men

in-law or sister-in-law even in cases where she is abusive

- **Disintegration of families** – Due to fear of being implicated in a false 498A case, parents have now started to legally disown their sons before or immediately after marriage. The terror of this law has resulted in the break up of numerous families.
- **Suicides of innocent people** – Unable to bear the harassment and the humiliation they suffer after being charged in a false criminal case, many people, including aged senior citizens, have been committing suicides.

### **What does 498a do to society?**

- **Abuse of the Criminal Judicial System**
- **Elder Abuse** – Most senior citizens who have never been to the police stations or courts in their lifetime are dragged into jail without investigation and then into court cases that span several years
- **Women Abuse** – Many women in the husband's family are abused by the process
- **Abuse of entire extended family** – Many in the husband's family lose their jobs/earnings
- **Cruelty towards Children** – Separation of parents from children, including infants results in trauma
- **Unequal rights (not only women vs. men but also women vs. women)** – The wife/daughter-in-law can file charges against all the women in the husband's family even if they are innocent but the female relatives of a husband do not have similar legal provisions for protection from a daughter-

### 3. “SPARE A THOUGHT FOR DOWRY LAW ABUSE” - CURRENT STATE

Please take a moment to read through what a lot of newspapers, judiciary and media are saying about IPC-498a (commonly known as Indian dowry law).

**“Nowadays lots of men are experiencing pre-wedding jitters.** The reason: They are terrified of misuse of the anti-dowry law.” - Vijay Times, Bangalore, Thursday 07 April, 2005

**“The police should realize that it is not a matter between two individuals, not even between two families, but several families,** such as in-laws” - The Hindu, September 17th, 2004

**“Its time that the law is changed and punishment for these false accusations be made** the same as that meted out to those who are really guilty of such acts.”

“The anti dowry law has number of loopholes and it is high time that our society wakes up and takes a strong note to amend these one sided laws which are eventually breaking up our Indian marriage system”  
- www.hindustan.net, July 27th, 2005

**“The abuse of anti-dowry laws has become serious enough that the United States Department of state has published a travel warning about “Dowry/Visa Demands” for travelers to India”** - Lisa Tsering, India West, December 30th, 2004

“In urban area, marital problems are sometimes compounded by the confrontationist advice given to distressed women by aggressive NGOs.”  
“I also feel that the addition of “emotional” to verbal and physical abuse as a ground for seeking legal protection

is liable to rampant misuse.” - Chandan Mitra, The Pioneer ([http://www.dailypioneer.com/columnist1.asp?main\\_variable=Columnist&file\\_name=mitra%2Fmitra132.txt&writer=mitra](http://www.dailypioneer.com/columnist1.asp?main_variable=Columnist&file_name=mitra%2Fmitra132.txt&writer=mitra))

The judicial authorities of India, in number of landmark judgments, have taken a serious view of the growing tendency to falsely implicate innocent members of the husband’s family in dowry cases. Describing misuse of IPC-498a law as “legal terrorism”, the Supreme Court said no one could be allowed to unleash frivolous proceedings on this count as the provisions of Section 498a “is intended to be used a shield not as an assassin’s weapon.”

“The stringent dowry laws, meant to deter dowry-seekers, are being increasingly misused by the very people they are meant to protect. The last three years have seen a steep rise in the number of cases of harassment for dowry”. (Ref: <http://cities.expressindia.com/fullstory.php?newsid=170603>).



**“Nowadays lots of men are experiencing pre-wedding jitters. The reason: They are terrified of misuse of the anti-dowry law”**

Ajaib Singh, head of the Women and Child Support Unit, says **70 percent of the 1,000-odd cases that they receive every year pertain to dowry, but only 20 percent of these are genuine.** “It is unfortunate that more and more people are misusing the stringent provisions of the law out of sheer spite.”

“People generally use this law to facilitate a divorce. And often, it’s the lawyers who advise the women to implicate their in-laws under the provisions of this Act,” says Shantosh Singh, chairperson of Women Welfare Counseling Cell. Often, the number of items given in dowry is inflated to claim a high settlement amount. “There are only 10 per cent cases based on truth, and people usually come to us and ask specifically to

mention the element of dowry in their divorce petitions,” says Amrikh Singh Kalra, advocate at Punjab and Haryana High Court.

Mahila Thana Station (Lucknow) Officer Vijay Laxmi Pandey says, “in most cases, it begins with an ego problem which finally leads to a threat of dowry complaint. We try our best to solve these cases by providing a non-police station like atmosphere to counsel the couples.” “Cases of dowry harassment in love marriages are also on the rise. Growing differences between couples after few years of marriage is the reason in most cases and evidences provided against the husband are often found to be very flimsy during investigation,” says Pandey. The Lucknow Mahila Thana gets at least three cases every week and those filing the complaints are the harassed husbands of women who threaten to use the Dowry Protection Act to their convenience. However, there is no provision under the law to convert such a complaint, made by a husband, into FIR and book the wife. According to lawyer Rohit Kant, “The Section 498a (3/4) Dowry Protection Act and 406 of Indian Penal Code are the two Sections which come handy in filing complaints against husbands. The vice-a-versa doesn’t work.” (Reference: <http://cities.expressindia.com/fullstory.php?newsid=169738>).

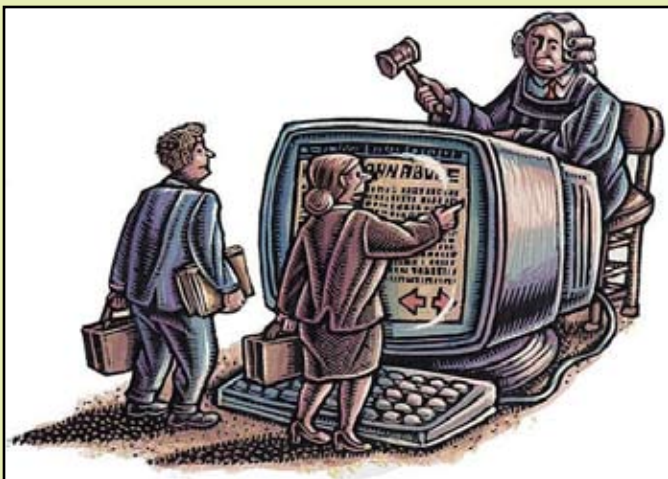
While dowry death and dowry related harassment cases have been widely discussed, debated and analyzed, often becoming the headlines of the leading dailies, the gross and growing misuse of anti-dowry laws has been ignored by the media and the government.

The number of innocent families victimized by the misuse of 498a is increasing alarmingly. These innocent families are looked upon as culprits by the neighbours, the society and the law enforcement authorities when police visit their home and arrest them. Some of them, have committed suicide because of the ignominy they had to suffer. “There have been instances where mother or father have died of shock or committed suicide because the humiliation of a false criminal case was too much to bear,” writes Kusum, a prolific writer on gender issue, in her thought provoking book “Harassed Husband”. “If this trend continues it is not unlikely that women themselves might suffer as they would lose credibility and sympathy of the society. Innocent, simple girls are more likely to suffer because of malicious complaints by clever and unscrupulous women”, Kusum warns. Many men have also committed suicide rather than face humiliation.

**A bank employee hanged himself in his flat in Maya Puri, Delhi.** The wife often used to stay with her parents. His efforts to persuade his wife to return to his home only resulted in his wife filing a false dowry complaint against him. **Another man immolated himself in New Delhi.** The reason being **complaint of ‘dowry demand’ by his estranged wife which led him to jail twice.** **A 40 year old ex-Airforce officer, committed suicide in Ahmedabad, Gujrat, after being implicated in a false 498A case during which he was jailed** for 10 days. Unable to cope with the “mental torture” inflicted by his wife, **a 30 year old man committed suicide in Krishnagar, West Bengal, on Jan 3, 2007.** He had been dragged to the police station, on at least a dozen occasions in the past five years, by his wife, complaining of torture, which were confirmed to be false by the additional superintendent of police. Another man committed suicide in Ahmedabad on Nov 19, 2006 after being harassed in a false 498A case. He was the only son of his aged parents. **A 30 year old man from Kolkata committed suicide on Sept 1, 2006, after being implicated and arrested in a 498A case in 1999. Even after 7 years, his case was subjudice when he died.**

Numerous senior citizens are also committing suicide due to harassment faced due to false 498A cases. **A 64 year old man, a retired employee of a multi-national company, committed suicide in Kolkata, explicitly mentioning about 498A** in his suicide note stating further that “I am ending my life unable to bear the torture meted out to me by my daughter-in-law”. **Another senior citizen from Ludhiana, Punjab, killed himself by throwing himself before a running train** and left behind a suicide note that read “I am ending my life because the parents-in-law of my son have filed false cases against me and my family”.

**An old couple from Faridkot, Punjab, killed themselves by consuming pesticides on Jun 20, 2006.** It was revealed that the deceased were feeling harassed and terrorised after their daughter-in-law got a criminal case registered against them for bringing insufficient dowry. Humiliated and on the run, they committed suicide clarifying in the suicide note that they never harassed their daughter-in-law for dowry.



**“There have been sporadic cases where the woman left her matrimonial house within few days of marriage and filed a long list of ‘dowry’ in the complaint filed against the husband”**

The terror of this law has completely destroyed and annihilated several innocent families. **An entire family consumed poison on Feb 3, 2007 in Alwar, Rajasthan. The husband, an engineer, and his father died**, while his mother was admitted to Hospital. Right from the starting of marriage, the bride’s family used to harass the husband by threatening to implicate him and his entire family in the false cases related to Dowry. Another instance of mass suicide involving three members of a family was reported a few years ago in Ballabgarh, Haryana. In this case, **the husband himself, his young sister and their hapless mother consumed poison and ended their lives because of the growing unreasonable demand of the daughter-in-law and the continuous harassment inflicted by her family.**

These few instances illustrate the terror that has been created by anti-dowry laws in the minds of a large number of husbands who feel captive in the hands of their own wives. **While some hapless men, unable to live a harassed and humiliated married life, prefer to die, many others live their married lives under constant fear of being falsely implicated under section 498a.** They are forced to meet unreasonable demands, tolerating unruly behavior of their wives only for family’s *izzat*.

The Dowry Prohibition Act passed in 1961 proscribed giving or taking of any valuable security or property in “consideration of marriage”. To plug the loopholes in the law, the definition of dowry was widened by amendments in 1984 and 1986, to include any property or valuable security given or agreed to be given at, or before, or at any time after the marriage. To further check this deep-rooted social evil, sections 113A and 113B were introduced in the Indian Evidence Act and section 406 and 498a in the Indian Penal Code (IPC). The objective was to give legal protection to the married women against victimization by the dowry greedy in-laws. But, **these laws have now become a handy weapon for many women to blackmail, harass, humiliate and falsely implicate the innocent members of the in-laws family in ‘dowry-demand cases’ and extract money from them before finally settling the marital discord or dispute.** The cause of dispute may be something else like sexual dissatisfaction, drinking or smoking by the husband, lack of privacy, financial constraints, husband’s ‘extra leaning’ towards his parents or brothers and sisters, or even wife’s own leaning towards her own family or some other man which may not be liked by the husband. In such cases ‘demand of dowry’ becomes an easy excuse for many women with two advantages in mind - getting rid of the man and extraction of *Moti Rakam* (hefty amount) by forcing the panicked husband and his family to agree to the terms dictated by her.

According to a newspaper report, **in 90 per cent of the cases coming to the Crime Against Women Cell (CAWC), Nanakpura, Delhi, the lists of dowry, filed by the women are exaggerated.** These contain, among other things such as, items, which either were never given in dowry or were already in possession of the woman. While request for retrieval of stridhan (jewelry) tops the lists submitted by women to CAWC, ‘demand of money by in-laws’ figures next, the report says. The newspaper report also discloses that **between 20 to 30 per cent of the cases reaching the CAWC are such that although the stridhan was actually in possession of the women, they still lodged complaint against their husbands.**

This tendency to harass the in-laws is more common among those women who do not want to compromise with their husbands or intend to remarry. Their intention is to extract as much money and material as possible from the marriage. There have been sporadic cases where the woman left her matrimonial house within few days of marriage and filed a



long list of 'dowry' in the complaint filed against the husband. Women tend to implicate a large number of members of the husband's family due to the simple reason that the greater the number of accused, the higher the chances of extracting hefty amount of money as settlement. Taking a serious note of this growing tendency, the Supreme Court of India has held that for the fault of the husband, the in-laws or other relatives cannot, in all cases, be held to be involved in dowry death. "In cases where such accusations are made, the overt acts attributed to persons other than the husband are required to be proved beyond reasonable doubt. By mere conjecture and implications such relations cannot be held guilty of the offence relating to dowry deaths," the court observed while allowing an appeal against a verdict of the Punjab & Haryana High Court in a dowry death case. Earlier, the Joint Director of the Crime Branch of Mumbai Police had issued an order on 26 October, 1992 to the effect that the matter should be thoroughly investigated before registering a case under section 498a.

Today every husband is labeled a torturer and the mother-in-law a demon. A fair amount of blame for this rests on the media which, with a view to sensationalize the 'story' blows the news of 'harassment' or 'torture' of married women out of proportions, without properly investigating the veracity of the story. The news of alleged 'torture, harassment, and misappropriation of stridhan' of wife by 'A' was published prominently by a leading city newspaper, accusing several members of his family torturing her. The concerned reporter never bothered to verify the allegations with the husband of 'A'. As the news carried his full name and those of his relatives, designation and the organization where he was working, it caused irreparable damage to the entire family's image and hard-earned reputation in almost every circle they moved. Queries started pouring in following this news. Depressed as he was, 'A' immediately registered his protest with the editor. The newspaper did publish his rejoinder, but after a long time gap and without any apology for publishing an unverified report.

One wonders where this growing tendency of misusing the useful laws by unscrupulous parties is leading the society. Harassing and victimizing women for dowry is condemnable. We all have sisters, and daughters, and undoubtedly they require legal protection from all forms of harassment and cruelty but what if the legal loopholes of this very law are misused by women to harass their husbands and in-laws?

**How long will the sufferings of the husband and his family remain unnoticed and their cries unheard?**

**How many more innocent lives would be lost before sanity and justice would be restored**



**"Today every husband is labeled a torturer and the mother-in-law a demon"**

**"One wonders where this growing tendency of misusing the laws by unscrupulous parties is leading the society"**

## 4. WHAT DO INDIAN COURTS SAY ABOUT IPC-498A ?

### Is IPC-498a (dowry law) a balanced law?

Right to life and liberty of every citizen is guaranteed under Article 21 of the Constitution of India. But this life and liberty can be curtailed if they hinder others' life and liberty. For that due process of law is necessary. While civil law determines what is right and what is wrong, the criminal law imposes penalty to deter.

Section 498A was inserted in the Indian Penal Code in 1984 with a view to protect women against dowry harassment. From the very beginning of this law there has been reaction from the society including legal luminaries that this law could be misused and its effects on the society would be deleterious.

In their judicial observations and remarks, the courts have expressed deep anguish over this law. Here are some recent judicial observations.

Way back in 1990 Punjab and Haryana High court observed in **Jasbir Kaur vs. State of Haryana, (1990)2 Rec Cri R 243** case as:

"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 vs. State of Punjab, 2000 CriLJ 2993** the apex court observed as:

"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 by 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 Vs. Srikanth, 2002 CriLJ 3605** observed as:

"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 down right on the part of the police to include the whole of the family as accused"

**Supreme Court, In Mohd. Hoshan vs. State of A.P. 2002 CriLJ 4124** case, observed as:

"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"

**Delhi high Court, in Savitri Devi vs. Ramesh Chand, 2003 CriLJ 2759** case observed as:

"These provisions were though made with good intentions but the implementation has left a very bad taste and the move has been counter productive. There is a growing tendency amongst the women which is further perpetuated by their parents and relatives to rope in each and every relative including minors and even school going kids nearer or distant relatives and in some cases against every person of the family of the husband whether living away or in other town or abroad and married, unmarried sisters, sisters-in-law, unmarried brothers, married uncles and in some cases grand parents or as many as 10 or 15 or even more relatives of the husband."

**Punjab and Haryana High Court, in Bhupinder Kaur and others vs. State of Punjab and others, 2003 CriLJ 3394** case observed as:

"From the reading of the FIR, it is evident that there is no specific allegation of any act against petitioners Nos.2 and 3, which constitute offence under s.498-A I.P.C. I am satisfied that these two persons have been falsely implicated in the present case, who were minors at the time of marriage and even at the time of lodging the present FIR. Neither of these two persons was alleged to have been entrusted with any

dowry article nor they alleged to have ever demanded any dowry article. No specific allegation of demand of dowry, harassment and beating given to the complainant by the two accused has been made. The allegations made are vague and general. Moreover, it cannot be ignored that every member of the family of the husband has been implicated in the case. The initiation of criminal proceedings against them in the present case is clearly an abuse of the process of law”

**Jharkhand High Court in Arjun Ram Vs. State of Jharkhand and another, 2004 CriLJ 2989 case observed as:**

“In the instant case, it appears that that the criminal case has been filed, which is manifestly intended with mala fide and ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. In this connection reliance may be placed upon AIR 1992 SC 604: (1992CriLJ 527)”

**Supreme Court, in a relatively recent case, Sushil Kumar Sharma vs. Union of India and others, JT 2005(6) 266 observed as:**

“The object of the provision is prevention of the dowry menace. But as has been rightly contented by the petitioner **that many instances have come to light where the complaints are not bonafide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignomy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with.** Till then the Courts have to take care of the situation within the existing frame work. As noted above the object is to strike at the roots of dowry menace. **But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin’s weapon. If cry of “wolf” is made too often as a prank assistance and protection may not be available when the actual “wolf” appears.** There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow

any straitjacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any pre-conceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumptions that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are rebuttable. **It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations.** It is equally undisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view.”

**Justice Malimath Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003 observed the following and gave the recommendation to amend the law immediately:**

**“16.4.4 In less tolerant impulsive woman may lodge an FIR even on a trivial act. The result is that the husband and his family may be immediately arrested and there may be a suspension or loss of job. The offence alleged being non-bailable, innocent persons languish in custody.** There may be a claim for maintenance adding fuel to fire, if the husband cannot pay. She may change her mind and get into the mood to forget and forgive. The husband may realize the mistakes committed and come forward to turn a new leaf for a loving and cordial relationship. The woman may like to seek reconciliation. But this may not be possible due to the legal obstacles. Even if she wishes to make amends by withdrawing the complaint, she can not do so as the offence is non compoundable. The doors for returning to family life stand closed. She is thus left at the mercy of her natal family. 16.4.5 This section, therefore, helps neither the wife nor the husband. The offence being non-bailable and non-compoundable makes an innocent person undergo stigmatization and hardship. **Heartless provisions that make the offence non-bailable and non-compoundable operate against reconciliations. It is therefore necessary to make this offence (a) bailable and (b) compoundable to give a chance to the spouses to come together.**

**(118) The Code may be suitably amended to make the offence under Section 498 A of the I.P.Code, bailable and compoundable."**

These are only a few observations of their lordships from scores which conclusively prove that:

1. A woman (not necessarily every woman) can be much more cruel than a man (not necessarily every man).
2. While intending to protect the life of a person, s.498A of IPC jeopardizes around a dozen innocent persons whether they are children or old. Hence, the provision is discriminatory and in violation to the Article 14 of the Constitution of India.
3. Instead of restoring equilibrium, the provision aggravates disequilibria. Hence, it is not only imbalanced but also there is a failure of guarantee of right to life under Article 21 of the Constitution of India.
4. For the reasons stated under conclusions 3 and 4 above the provision is not only imbalanced but also ultravires.

Because of these maladies the provision needs to be amended at the earliest to protect the life and liberty of millions of innocent people including children and old. Prior to that the learned and honorable courts may consider imposition of heavy penalty as done in case of vexatious PILs. Such PILs are only vexatious but in the matter of the cases may be false, malafide, malicious and revengeful.



## 5. WHAT ABOUT OTHER SIDE OF THE 498A REALITY?

"Am I a coward? My knees have circular scars from being scrubbed with footpad. I have a sambar burn on my face. I have two stitches on my thigh. Yet I had to face the threat of being in jail as an aggressor. People either laugh or sympathize but nobody says I should get justice only because I happen to be a male! I care two hoots for laughter, I do not need sympathy but I want justice.

Will I get it?" Says Bhargav, who not only had to face domestic violence but also the threat of a false 498a case by his wife. While such stories of male harassment are becoming very common, the society still finds it hard to empathize with a man's plight. It hardly takes any effort to convince people if the same story were narrated by a woman.

Divesh, another harassed husband says, "I do not defy anyone labeling my narration as 'my side of the story' ... but my question is why this is not asked when a girl goes to register a complaint or even during gossips where they are accompanied by the unlimited stocks of crocodile tears. They are taken on face value ... Is it that females speak only truth?"

It might be hard to imagine the reasons why a woman might want to harm her husband and his family and ruin her own life by filing a false 498a case.

Nakul, a victim explains: "Why do some unscrupulous wives misuse IPC 498a? Firstly to harass the husband, and maybe for monetary gains ..."

It is true that many women are making false accusations of mental cruelty and harassment on their husbands and in-laws either of their own accord or at the behest of their family members. There are many cases where the main issue is incompatibility between the husband and wife. There are other cases where the husband

discovers that the wife and her family misrepresented themselves and took advantage of his trust. In other cases, the domineering influence and greed of a woman and her family results in marital discord. Whatever the case may be, the husband and his family are in for a roller-coaster ride for the next several years if the wife so desires.

Some people might ask, "How can a lot of wives misuse the law when it's a fact that misusing wives will lose cases anyway?"

Nakul says, "**The Indian legal process is a punishment in itself, especially when it lingers on aimlessly for 5-10 years after the harsh period of police investigations** (institutionalized blackmail to be frank). Since there are no legal repercussions if the wife is found to be fabricating a false 498a charge, wives use this almost by default even if they want a divorce for reasons other than dowry harassment and cruelty on the part of the husband. Even if they (complainants) lose the case, there's nothing for them to actually lose, as the wife gets a lawyer from the state

(public prosecutor), she doesn't have to appear other than for her statements during the trial (2-3 court sessions as opposed to the innumerable sessions which the accused husband and family have to attend throughout the duration of the case). **This no-lose situation is what makes the law-misusing wife confident of inflicting damages to her husband without any harm to her whatsoever.**"



**"Since there are no legal repercussions if the wife is found to be fabricating a false 498a charge, wives use this almost by default even if they want a divorce for reasons other than dowry harassment and cruelty on the part of the husband"**

Nakul also points out that "in this particular criminal section of 498a, the accused is considered guilty right from the start until proven innocent (*i.e.* the onus of proof is on the accused), while in all other criminal cases (including murder) the accused is considered innocent until proven guilty."

There are many heart-wrenching stories of innocent families being arrested without investigation and put in judicial custody. While IPC 498a is supposed to be a law to protect women, ironically it harms many more women. For every male accused of IPC 498a, there is at least one woman (his mother or sister) who is implicated in a crime that never occurred. If there are more women in the family they too are accused irrespective of their age, health condition, marital status or their physical proximity to the complainant. The entire family is ruthlessly arrested without investigation and there are no words to describe the financial hardship and emotional trauma that they have to endure. Children suffer whether they are jailed along with their mothers or are separated from them during that time. **If this is not harassment, then what is?**

Every innocent person facing a threat or charged with a crime under section 498a is extremely angry (and justifiably so) at how the Indian police and judicial systems operate in these cases. Shishir, a victim, says. **“How would you feel when somebody accuses you of a crime you have never committed, the law asks you to prove your innocence and the police punish you even before you are convicted?”**

Another striking feature of these victim stories is that the complainants, in collaboration with the police make sure that the **arrests are strategically planned to harass and demoralize the accused, to make them succumb to the fear of being imprisoned** and to extract huge amounts of money thereafter. Shivani, a US citizen who had gone to India to attend her mother-in-law's funeral, was arrested under section 498a (filed by her sister-in-law), during a time when lawyers were on strike in Chennai. **Shivani had to spend seven gruesome days in prison away from her two little children (one of whom was sick).** Another female victim, **Usha, who had traveled to India to see her dying father, was arrested along with her brother while their father was still in hospital. They lost their father while they were in police custody.**

Divesh notes that “most of the arrests that have been purposely made are on Friday evening. The reason is that the next two days being weekend off ensures that the husbands and his parents and relatives spend at least that many days in jail till the court opens on Monday. And if that day happens to be a government holiday then the proceedings are in suspension for a further while. The other popular days

are days before holidays especially if the holiday is on Friday, then Thursday is apt for arrest as the proceedings are halted for three days minimum and the husbands and his innocent family members are in jail. I would rate these cases from past trends as more than 90%.”



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**“Once a family has been tortured using the 498a weapon, the chances of reconciliation between the husband and wife are nil”**

### **What are the social consequences of misuse of 498a?**

Once a family has been tortured using the 498a weapon, the chances of reconciliation between the husband and wife is nil. The divorce that ensues is another mode of harassment for the already impoverished husband because he is forced to pay a hefty alimony/maintenance demanded by his wife. As Mihir notes, “An interesting ruling of the Allahabad High Court, where the wife was made to pay maintenance to her husband after divorce seemed to be a light of hope for those aggrieved and deprived husbands. But all the women had voted against this ruling criticizing the judgment as biased.”

Shishir asks, "Why are they calling it as biased? Do they despise providing any kind of financial support to their husband? Or do they feel that providing financial support is only a man's domain and responsibility and not that of women? It is evident from the momentum of these women's rights campaigns that they not only want to assert their own 'rights' in the society but also they want to dictate men's 'duties.'" Many feel that this kind of attitude on the part of women defeats any attempts of achieving gender equality.

Voicing the agony of all victimized men, Nakul says, "We are trying to see courts as our 'parks' and litigation as 'small talk', so that we ourselves do not fall into the self-destructive vortex as the wasteful trials and adjournments and other self-defeating legal processes stretch out, without any sign of closure while life is kept in abeyance (can't restart a family, can't relocate easily, can't be free from time spent, etc.)"

Sharat, another victim states, "According to an estimate, there are around 50,000-55,000 false 498a cases filed every year in India. This creates multi-dimensional problems to the families and society:

- 1) Lot of productive time, energy and money of the family are spent in proving themselves innocent.
- 2) Law implementers and judiciary have to spend countless number of hours presiding over a 'civil' matter (false in more than 90% cases) while the judiciary is already overburdened and has a severe backlog of millions of civil and criminal cases.
- 3) Tax-payer money is spent on the government lawyer appointed to the daughter-in-law and letting her fight her vicious lie.
- 4) Families who have never spent a single minute with lawyers, courts and police, are forced to run frantically from pillar to post to defend an alleged crime they never committed and they are bound to get depressed with the judiciary and police system.
- 5) Eventually, the institution of marriage might become more like a business transaction in which a man and wife will have to document every agreement in writing in front of lawyers."

When victims and activists protest against misuse of 498a and other dowry-related laws, they face large-scale denunciation by groups claiming to be women's rights activists. But is their criticism justified? As one female victim questions, "Why do we need unfair laws which will 'benefit' a woman if she is a daughter-in-law or wife but harm her if she is a sister-in-law or mother-in-law? When it is natural for

a woman to simultaneously play all these roles how can a heavily misused law such as IPC 498a be beneficial to women in its current form?"

Shishir notes, "498a law, which was enacted to protect women from any unlawful dowry or related harassment, is now **become a multi-million racket in our society**. The woman who files a false case, the lawyer who guides the woman on how to file a false case and the police who make the arrest, all seek unjust monetary gains from the situation. **Why do we have to keep quiet when it is our right to fight against injustice?** Such draconian laws are not yet criticized by many women's organizations which are campaigning for women's rights and protection. The Government too has not provided any remedial measures to curb such a malicious practice, which was termed "Legal Terrorism" by Supreme Court of India.

The appeals and suggestions of 498a victims to amend section 498a have been grossly misunderstood and misrepresented by some women's organizations (lobbying for strengthening 498a and other dowry related laws) as anti-women strategies. In response, here is what victims who seek nothing but justice and freedom from these unfair laws and long-drawn criminal procedures have to say:

"I do not want 498a to be eradicated. All I want is that the husband and his family are not arrested without proper investigation. In addition, if the law is misused then the wife and her family should be booked and sent to jail." - Rahul

**"Do not change 498a. But argue for heavy punishment to women who file false cases and for lie detection and brain-mapping test on the accused (cost being paid by accused). Simple is it not?"** - Anamika

Divesh, who has been enduring harassment from his wife and in-laws for two years cries, "Arey kanoon banane wale, aap ke ghar mein baap, bhai ya bete hai ke nahi? (Makers of such laws, don't you have fathers, brothers or sons in your homes?)"

**Lawmakers, are you listening?**

## 6. 498A STATISTICS

Perhaps nothing else reveals the extent of the misuse of the section 498A, than the statistics themselves. The statistics compiled from various sources reveal some shocking patterns. The degree of the abuse of this legal tool at the disposal of unscrupulous women is clearly borne out by analyzing the data available.

The details of the cases filed under section 498A in the year 2005, are as under

(Source : Ministry of Home Affairs, RTI ref. no. 24013/20/2006-SC/ST-W)

No. of dowry cases registered	58319
No. of dowry cases not charge-sheeted because of frivolous grounds	10491
No. of dowry cases charge-sheeted	47828
Convicted	5739
Acquitted	24127
No. of undecided cases	17962

In year 2005 alone, 134757 people underwent arrest for 58319 complaints under 498A and Dowry Prohibition Act.

(Source : Ministry of Home Affairs, RTI ref. no. 24013/20/2006-SC/ST-W)

Below 18 years	358	0.2%
Between 18-60 years	129655	96%
Above 60 years	4744	3.5%

Out of 1,34,757 accused, approximately 18% were not chargesheeted, which means 24,256 arrests of innocent people were caused only because these acts are non-bailable and cognizable, which forced the police to arrest the accuse, even though the complaints were frivolous.

On an average 2.3 people were arrested in every complaint by a woman. It is appalling to note that 358 children and 4744 senior citizens were arrested without verification of the veracity of the complaint.

**The World Health Organization reports Lebanon and India as first ranking countries for legal abuse of elders in its report and explicitly mentions the dowry law as a tool for rampant abuse of elders in India .** (Document no. WHO/NMH/VIP/02.1, WHO/NMH/NPH/02.2 Title Missing Voices. <http://www.498a.org/legalTorture.htm>)

Extract from WHO report

D) Legal and financial abuse

**"Legal abuse was named as a particular type of abuse in both India and Lebanon, although each country has its own specific version of this. The Indian expression of legal abuse is through abuse of the dowry laws by daughters-in-law:"**

**"In India, there is a law that is intended to protect daughters-in-law from abusive in-laws. A daughter-in-law can go to the police station and lay a complaint that she is being abused by her in-laws, and the in-laws are arrested on her word alone. However, the focus group participants reported that some daughters-in-law are using this law as a form of elder abuse, by making false police reports. In general, participants stressed that the lack of a caring attitude by daughters-in-law was a major problem. (India)"**

Not only senior citizens, even women and children are abused using this legal process. It is ironic that more than 25,000 innocent women get arrested under section 498A, which has been projected as a law for welfare of women.

The data for the arrests made under section 498A and its analysis is given below (Source : National Crime Records Bureau)

	2003	2004	2005
Persons Arrested	110623	125657	127560
Women Arrested	26465	27832	28745
Seniors Arrested	3786	4324	4512
Children Arrested	297	294	339
Persons Chargesheeted	106980	118367	121653
Persons who completed trial	70167	71192	74496
Persons Convicted	12558	14706	14583
Acquittal Rate (for people who completed trial)	82%	79%	80%
Innocent Persons Arrested daily	249	273	281
Innocent Women Arrested daily	60	61	63
Innocent Seniors Arrested daily	9	9	10
Innocent Children Arrested daily	1	1	1

The analysis above reveals some startling facts. Under a false case of section 498A -

**An INNOCENT child is arrested every day.**

**An INNOCENT senior citizen is arrested every 2.4 hours.**

**An INNOCENT woman is arrested every 23 minutes.**

**An INNOCENT person is arrested every 5 minutes.**



These statistics clearly demonstrate the legal and systematic abuse of husbands and their families by vicious and cruel misuse of this law against them. The abuse by wife is often in collusion with her relatives. The laws have grave impact on the life of man and his family, in the event of false allegations, which are acted upon even before considering the genuineness of the complaint.

In India, men do not have legal recourse in the event of abuse. The legal system only adds another dimension of "legal torture" to these families, by making them helpless in the event of abuse. If a family decides to fight back against these false allegations, then besides facing an imminent arrest, they also face tremendous legal hurdles in proving their innocence.

The following data proves that the average length of trial for cases under section 498A is increasing and because more 498A cases are being filed every year than the courts are able to adjudicate. (Source : National Crime Records Bureau)

	2003	2004	2005
Persons under trial (including past years)	500166	537137	573881
Persons for whom cases were withdrawn	11229	13717	13447
Persons who completed trials	70167	71192	74496
Persons pending trial	418770	452228	485938
<b>Average Length of Trial</b>	<b>7.1 years</b>	<b>7.5 years</b>	<b>7.7 years</b>

In a typical illustration of "Justice Delayed is Justice Denied", the lengthy trial forces many innocent families to give in to extortion and blackmail and "compromise" by giving huge amounts of money. The feeble recourses of "Restitution of Conjugal Rights" or "Divorce" make men even more miserable in an actual domestic tiff. In such situation having left no legal recourse to get out of abusive relationships, some innocent men and their families end up taking their own lives.

Men usually commit suicide due to humiliation suffered in the initial stages of dowry complaint as the complaint (true or false) usually means few days of arrest (which, in many cases, results in automatic loss of job, especially Govt. jobs), humiliation in society and anguish for causing arrest to elders and youngsters of husband's family, which usually means loss of life for elders and loss of dignified career for

the implicated children.

Due to stringency of dowry laws, 53 men committed suicide in year 2004. (Source : Ministry of Home Affairs, RTI ref. no. 24013/20/2006-SC/ST-W). **One man commits suicide every week due to this law.**

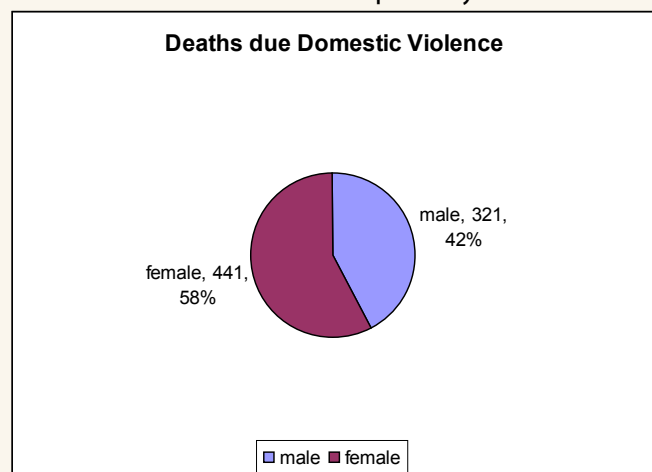
**The ratio of Male : Female victims of suicide in India is 63 : 37 and nearly 44.7% of the suicide victims were married males while only 25% were married females.**

(Source: National Crime Records Bureau)

A study by Professor K. Nagaraj, senior economist at the Madras Institute of Development Studies (MIDS) shows that the distribution of suicides by marital status reveals some shocking patterns. The rates do not vary much between the sexes for the never married. Among those currently married, while the rate for males is about 17 per 100,000 persons, the rate for females is 11.4 per 100,000. Among those widowed, while the rate for males is 21 per 100,000 persons, the rate for females is also significantly lower, at 6.6 per 100,000. However, among divorced males the suicide rate is 164 per 100,000 persons, but even in this class, among females the rate is only 63 per 100,000. While the suicide rate for separated men is about 167, for females it is 41 per 100,000 persons.

Gender biased laws that discriminate against men, create more injustice in the society. An example is the Domestic Violence Act, which allows only a woman to file a complaint against a man. It is the all the more unjust, given the fact that 42% of the victims that commit suicides in marital disputes are men. (Source : Ministry of Home Affairs)

No. of suicides due to marital dispute in year 2004



The misuse of this law is increasing the load on an already overburdened judiciary. Consider the following data for bail applications in various courts in New Delhi on a random day and a week after.

Bail Applications in Delhi Courts on 13th Feb, 2007

(Source : [www.delhidistrictcourts.nic.in](http://www.delhidistrictcourts.nic.in))

Court	498A related bail applications	Total bail applications	% of bail applications related to 498A
Tiz Hazari	43	82	52%
Rohini	21	70	30%
Patiala	4	11	36%
Kakkardooma	8	31	26%
Total	76	194	<b>39%</b>

Bail Applications in Delhi Courts on 20th Feb, 2007

(Source : [www.delhidistrictcourts.nic.in](http://www.delhidistrictcourts.nic.in))

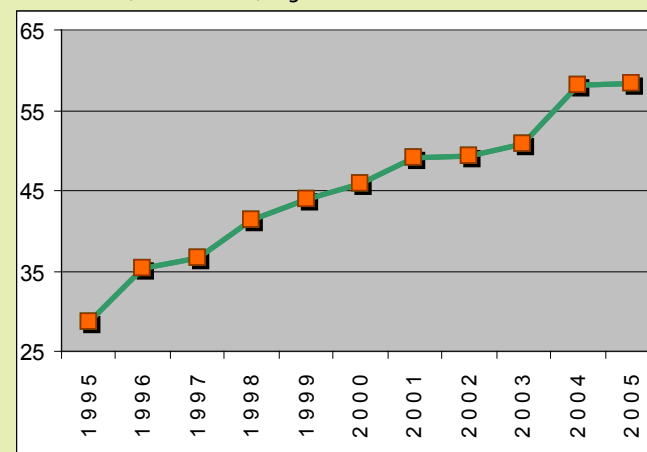
Court	498A related bail applications	Total bail applications	% of bail applications related to 498A
Tiz Hazari	18	51	35%
Rohini	11	63	17%
Patiala	7	33	21%
Kakkardooma	28	55	51%
Total	64	202	<b>32%</b>

As can be observed, **more than 30% of the bail applications in the New Delhi courts are related to 498A cases**. Given that about 80% of the cases that complete trial are found to be without merit, **eliminating the false 498A cases will reduce the load on the New Delhi courts by about 25%**, as far as the number of bail applications are concerned. This would allow the courts to devote more time for addressing the genuine grievances of citizens.

Lastly, one must question the efficacy of such draconian laws in terms of the achievement of the objective for which they were originally enacted. The intention behind section 498A was to curb the social evil of dowry. However, analyzing the number of cases registered in the past 10 years clearly exposes the failure of this law. (Source : National Crime Records Bureau)

Year	People Arrested	% increase over 1995
1995	28579	
1996	35246	23%
1997	36592	28%
1998	41375	45%
1999	43823	53%
2000	45778	60%
2001	49170	72%
2002	49237	72%
2003	50703	77%
2004	58121	103%
2005	58319	104%

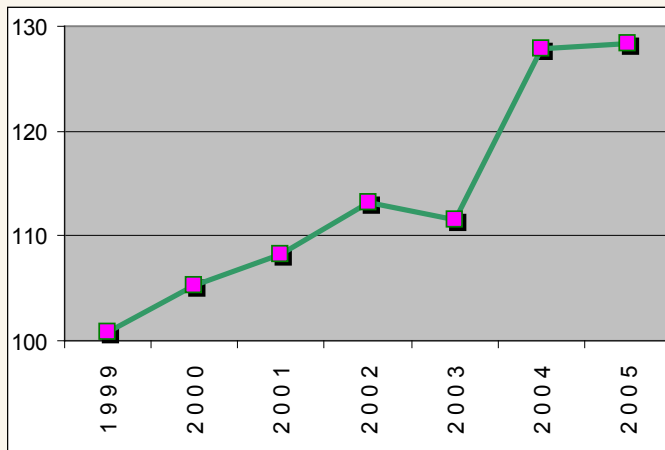
No. of Cases (in thousands) registered under section 498A



As can be observed, the number of cases have doubled in the last 10 years. Since about 80% of the cases that complete trial are found to be without merit, it shows the increasing tendency of urban women to misuse the laws for their own oblique purposes.

It is also interesting to note that the number of people arrested under section 498A has steadily increased over the years.

No. of Persons (in thousands) arrested under section 498A



It is evident from the data presented above that section 498A has miserably failed in its goal to protect genuine victims of dowry abuse. It has, instead, turned into a weapon which is used extensively to harass innocent families and is solely responsible for the breakup of many marriages and for the suicides of numerous hapless victims caught in the net of this law.

Laws like IPC Section 498A and Domestic Violence Act have number of provisions to intimidate men and their families. The effect of these laws is unjustified power in the hands of women for blackmail and extortion in domestic disputes, which irreparably damages the life of husbands and their relatives and sometimes also becomes the reason for their death.

The nature of Indian society has changed drastically over the past few years. The existing social conditions demand that Husband and his family be protected from his wife and her relatives, as well. It is now imperative that legal protection be provided to all citizens, irrespective of gender. The laws must be suitably amended in the interest of our future generations and women themselves. Unjustified attempts to discriminate against men will only cause destruction of the delicate family system, as has been amply demonstrated in the western nations. (<http://www.scotland.gov.uk/Publications/2005/07/28102739/27419>)

## 7. TYPICAL TRAITS OF COMPLAINANT AND ACCUSED

**Note:** *The following are scenarios in which false IPC 498A (498a) cases have been documented over the last few years. Therefore, if a husband or his family observes any or a combination of the following behaviors, he might want to watch out for a possible 498a case against him.*

### **Typical Complainant is a woman:**

- Who is suffering from pre-existing mental problems such as Borderline Personality Disorder, Bipolar Disorder, Schizophrenia, etc.,
- Whose family is nouveau riche and likes ostentatious display of wealth, possessions as well as social and political connections
- Who is used to living beyond her means
- Whose father is hen-pecked and whose mother dominates all family situations
- Who listens to and acts in accordance with her parents' wishes at all times, exhibiting a lack of individuality and discretion in dealing with her married life
- Who pushes for quick involvement during the establishment of a marriage alliance, pressing the man and his family for an instantaneous commitment
- Who is excessively possessive and suspicious
- Who is self-centered and feels the need to dominate the relationship and every aspect of decision-making
- Who tries to alienate her husband from his family and friends
- Who is hypersensitive and therefore easily insulted
- Who indulges in verbal abuse and constant criticism of her husband and in-laws
- Who uses blackmail (emotional or otherwise) and threats to get her unreasonable demands fulfilled by her husband and in-laws
- Who walks out on her husband following an argument and stays away from her husband indefinitely without any effort towards reconciliation

### **Typical Accused is man and his family:**

- Who are generally law-abiding citizens with no connection or experience with police and courts
- Who are busy professionals or Non-Resident Indians and do not have the time and ability to fight long-drawn cases in Indian courts and therefore stand out as soft targets for blackmails and threats
- Who are living in a joint family and do not yield to wife's demand to setup a nuclear family
- Who are individualistic and refuse to submit to the controlling nature of the wife and in-laws
- Who are wealthy and have a lot to lose under threat of arrest and extortion
- Who serve the Indian Government, and whose employment would be at stake if they were arrested or imprisoned
- Who are unwilling or unable to meet the monetary demands of the wife and her family



## 8. THOUGHT PROVOKING QUESTIONS ABOUT 498A

### Registration of FIR, arrest and court proceedings:

- When an FIR under IPC section 498A (498a) is registered, the accused are automatically arrested and jailed without investigation. The Supreme Court of India has ruled several times that arrest should be an exception, and not a compulsory. Why is there no penalty for disobeying the Supreme Court's orders? Is it not mental cruelty to subject a person to arrest without investigation or reasonable cause?
- Why is there no provision in the criminal law that can serve to deter false and exaggerated claims?
- Why does not the judicial system use its power to deter frivolous complaints made by unscrupulous individuals and prosecutions by corrupt law and order personnel for wasting the honorable courts' precious time and imposing the financial burden on the public exchequer?
- Why is there no provision by which the costs relating to false 498a cases can be recorded and recovered from the complainants to compensate the falsely accused?
- Why is there no penalty for the complainant who does not appear to the court proceedings?

### Equality of laws:

- According to established research, the frequency of husbands committing suicide is three times that of wives committing suicide. When a wife commits suicide it is automatically deemed to be dowry death, under IPC section 304B. Why do we have no such protection for husbands? [ref: <http://www.flonnet.com/fl1821/18210960.htm>]
- The existing laws protect a woman from cruelty and harassment by her husband and in-laws. Why does the law not provide protection to a man against cruelty and harassment by his wife and in-laws?
- The Dowry Prohibition Act clearly states that the dowry giver is also punishable under the said Act. Why do the police and judicial authorities not take any action against those who admit that they gave dowry?
- Dowry laws were made to protect women from harassment. What legal protection is available to a woman who is being harassed by a daughter-in-law or sister-in-law? What legal remedies are available to a woman whose daughter-in-law or sister-in-law has booked a false dowry case against her?

## 9. GENDER BIASED LAWS ENGENDER INJUSTICE

IPC section 498a was originally designed to protect married women from being harassed or subjected to cruelty by husbands and/or their relatives. This law was mainly aimed at curbing dowry harassment. Unfortunately, this law has been misused to harass men and their families rather than protect genuine female victims of harassment. The Supreme Court of India itself has labeled the misuse of section 498a as “legal terrorism” and stated that “many instances have come to light where the complaints are not bona fide and have been filed with an oblique motive. In such cases, acquittal of the accused does not wipe out the ignominy suffered during and prior to the trial. Sometimes adverse media coverage adds to the misery.” In agreement with the above statement, the findings of a study conducted by The Center for Social Research indicated that 98 percent of the cases filed under IPC section 498a are false. Nevertheless, the law has been always justified based on its intention of protecting women. At this point it would be worthwhile to think about how IPC section 498a has really affected women.

It has been argued by Government officials favoring the law that despite the establishment of legal measures to counter harassment of married women, there is an increase in the number of cases of harassment. The first part of the statement suggests that women who are harassed should be utilizing this law as a means of protection. If harassed women indeed used the law then we should see a decrease in the number of cases of harassment over time. Considering the stringent consequences imposed by the law and the inordinate delays inherent in the legal system, no ordinary citizen, male or female, would be impudent enough to risk being implicated under this law for the sake of satisfying their monetary or even sadistic desires for that matter.

The fact is that many women who are actually beaten up and harassed by their husbands and in-laws rarely file 498a or resort to other dowry related laws. A lot of them live in rural areas, unaware of the law or lack the necessary economic and moral support from their natal families. Going by the conviction rate the proportion of women who have genuine cases is 2%. Most women who file 498a are from urban backgrounds and are either capable of fending for themselves or have enough family support to fall back on. The proportion of women who belong to this category is 98%. In the 98% of false cases, in every instance that 1 daughter-in-law files a false complaint at least 2 women (an innocent mother-in-law and sister-in-law) are arrested and undergo stress, humiliation and harassment in the hands of the exploitative police, lawyers, staff and officials in Indian courts before being acquitted several years

later. So, in every 100 cases 2 women genuinely benefit, 98 women get away with perjury and extortion, and at least 196 women suffer needlessly.

The number of cases that are filed in police stations or courts are the basis for the official statistics of dowry harassment. So, given that the law allows women unlimited scope to fabricate lies (with no penalty of perjury) and given that women are encouraged to keep filing false cases the statistics of “dowry harassment” are bound to rise while the problem of genuine harassment is left unchecked. So, the government has, in the name of protection of women, done grave injustice to two groups of women. The first group constitutes the genuine victims of dowry harassment whose misery remains unmitigated but is constantly alluded to in order to justify the law. The second group consists of innocent mothers and sisters of husbands who are criminalized and harassed by the police and the legal system without any regard to their age, health or marital status. Pregnant women, unmarried sisters, ailing mothers and even aged grandmothers have been sent behind the bars under false allegations but their pain and suffering has not even been acknowledged let alone addressed by the Government. Through IPC section 498a, the Government is actually protecting those women that indulge in perjury, blackmail, extortion and harassment of their husbands and in-laws.

The recently passed Domestic Violence Bill claims that it will protect women from domestic violence which includes physical, verbal, emotional, sexual and economical abuse. According to the law an aggrieved person is defined as “any woman who is, or has been, in a domestic relationship with the respondent...” and a respondent is defined as “an adult male person who is, or has been, in a domestic relationship with the aggrieved person...” Thus, the law only recognizes domestic violence committed by a man on a woman in a household shared in the past or present. While this law is heavily biased against men, many supporters of the law are claiming that this law is good for women. The following are some gross inconsistencies in the law that prove that the DV Act is not good for women either.

There are several instances where a daughter-in-law and/or her blood relatives commit domestic violence (as defined by the law) against her mother-in-law, sister-in-law or any other females related by marriage. In addition, mothers or step-mothers abuse their children (who include daughters or step-daughters) physically, verbally, emotionally and economically and vice versa. In such a situation, the law does not provide any protection to female

victims of Domestic Violence. Thus, the law can only be used by a wife or a girlfriend (present or former) and their relatives/friends against a man and his family.

According to Clause 17 of the Act legally divorced women and former separated girlfriends/live-in partners can claim right to residence in the home of their former husband or former partner even though the Act says they may not have any right, title or beneficial interest in the same. The law can thus force a former wife or former girlfriend on a man's household and violate the rights of his present wife or partner. The law does not provide protection to a man's current wife or girlfriend/live-in partner or even dependent mothers and sisters under such circumstances. Here, the law favors divorced women and former girlfriends at the cost of the rights of a legally wedded wife/live-in partner and other female relatives that share a household with a man.

According to clause 19 a man can be removed from his own household and him and his relatives can be restrained from entering any portion of the household in which the aggrieved person resides. Through this clause the law supports the encroachment of property by a girlfriend (former or present) at the expense of the right to residence of a man, his legally wedded wife and any other dependent female members of a family. In the name of protecting a section of women who may be making true or false allegations, the law penalizes innocent women who are related to an accused man.

Despite documented evidence that section 498a of IPC has been heavily misused affecting more and more women (along with men) everyday, no amendments to this law have been proposed so far. As with section 498a of IPC, the Domestic Violence Act is replete with loopholes and is bound to be misused. The DV Act will allow legally wedded women, divorced women and girlfriends (former or present) to subject a man and his relatives (male and female) to domestic violence and legal harassment. This Act, like Section 498a of IPC will result in the harassment of many more innocent women than it claims it will protect. It is important for the Government to acknowledge the fact that IPC 498a and DV Act are bad laws that criminalize ordinary citizens (male and female) and violate their fundamental rights. Unless urgent amendments are made to prevent the misuse of these laws, credibility of women will be lost. In addition to lost credibility, an overload of false cases will worsen the delays in the judicial process and deny timely justice to women who are genuinely aggrieved.

Unreasonable and easily misused laws like IPC 498a and DV Act are already creating a situation of fear and mutual distrust and adversely affecting interpersonal relationships between men and women in the society. This is resulting in more and more broken families and depriving children of a healthy childhood. If the Government and women's organizations were truly

interested in improving the living conditions of women in India they would focus on empowering women through education. Education builds self-confidence and gives a person the ability to stand up for oneself. Educating women can also ensure that the next generation of children are raised to treat each other with respect and be better citizens. The Government and women's organizations can also lend support for rehabilitation of abused women and protect them from further harassment without doing injustice to innocent men. It would behoove the Government and women's organizations to work in collaboration with social scientists and psychologists to understand human behavior in the context of changing social conditions and standards in India and think about workable solutions to deal with Domestic Violence and other forms of abuse instead of criminalizing ordinary citizens. Positive measures that can bring about domestic harmony are the only way to ensure family stability and long-term social stability.

## 10. STEPS AND SUGGESTIONS TO GOVERNMENT

**1. Role of Women NGOs:** These organizations should investigate complaint properly without any bias towards the woman keeping in mind that the law is being misused largely to harass more women in husband's family. They should not encourage any woman to file a criminal case against her in-laws for trivial matters.

Foreign Women Organizations should also take responsibility of not allowing false complaint to be registered against NRI's just to harass and extort huge amount of money from them. These organizations should also conduct survey/research on the misuse of the act and should educate people about its consequences.

If these organizations are found to be assisting in filing false complaints, then they should be made liable for prosecution in the country where they are functioning.

**2. Family Counseling Centers:** Numerous cases of men being harassed by wife or/and in-laws have come to light from different parts of the country. As of now there is no organization, which can really help these harassed men and his family members, to listen their side of the story and put their point of view in front of the government. Need of the hour is to create family counseling centers across the country to help those aggrieved families.

**3. Time bound Investigation and Trial :** A speedy trial of 498(a) cases will not only ensure justice for the innocents that have been implicated in false charges, it will also lead to prompt redressal of the grievances of real dowry victims. The reduction in false cases will also reduce the burden on judiciary and expedite the processing of real cases.

**4. Definition of Mental Cruelty:** Mental cruelty has been vaguely defined in the act, which leaves scope of misuse. This should be clearly elaborated to remove loopholes in the law. There should be provision for men also to file a case for mental cruelty by his wife.



**"Honourable Supreme Court of India has asked the government to amend IPC-498a to plug the many loopholes it has".**

**It's high time government acts on these suggestions**

**5. Investigation by Civil authorities:** The investigation into these offences be carried out by civil authorities and only after his/her finding as to the commission of the offence, cognizance should be taken. The government should create awareness among officers about its misuse.

**6. Bailable:** The main reason of 498a being misused to harass innocent is its non-bailable nature. This section should be made bailable to prevent innocent old parents, pregnant sisters, and school going children from languishing in custody for weeks without any fault of them.

**7. Compoundable:** Once FIR has been registered it becomes impossible to withdraw the case even if wife realizes that she has done a blunder and wants to come back to her matrimonial home. To save institution of marriage this should be made compoundable.

Moreover, in the scenario where the couple decides to end the marriage by mutual divorce, continuation of criminal proceedings hamper their life.

**8. Arrest Warrants:** Arrest warrant should be issued only against the main accused and only after cognizance has been taken. Husband family members should not be arrested.



**9. Penalty for making false accusation:** Whenever any court comes to the conclusion that the allegations made regarding commission of offence under section 498a IPC are unfounded, stringent action should be taken against persons making the allegations. This would discourage persons from coming to courts with unclean hands and ulterior motives. Criminal charges should be brought against all authorities that are collaborating with falsely accusing women and their parental families.

**10. Court Proceedings:** Physical appearance of the accused on hearing should be waived or kept low to avoid hassles in appearing to the court, especially for NRIs. The court should not ask to surrender passport of the husband and his family which could cost job of the husband and his family members.

**11. Registration of Marriage and Gifts Exchanged :**  
The registration of marriages should be made compulsory along with the requirement that the couple make a joint declaration regarding the gifts exchanged during marriage.

**12. Punish Dowry Givers :** If the complainant admits giving dowry in the complaint, the courts should take cognizance of the same and initiate proceedings against them under the relevant sections of the Dowry Prohibition Act

**13. Penalize corrupt Investigation Officers :** If it is apparent to the court that a fair investigation has not been conducted by the investigation officer, and that the husband and his family have been charge-sheeted without proper verification of the complaint, the investigation officer should be penalized for gross negligence of duty.

**14. NRI Issues :** Unless they are proven to be guilty after the due judicial process, NRIs should be given a fair chance to justice by assuring them of the following -

- a) Permission to return to country of employment
- b) No impoundment/revocation of passport and no Interpol Red Corner Notices.
- c) No unnecessary arrests
- d) Expeditious investigation and trial

**15. Gender Neutral :** Everyone should have equal rights and responsibilities, irrespective of gender. In the current social context, there should be similar laws to protect harassed husband and his family members from unscrupulous wife.

# 11. MEDIA REPORTS

"If there is a marital discord, man is considered the culprit. Everybody sympathizes with the woman. The law was made stringent to protect women but instead it has become a tool of blackmail".

"90 percent of dowry harassment complaints are false."

- **Arun Murthy, Founder of Sangyabalya quoted in "498a gives men pre-wedding jitters". Vijay Times. Bangalore. Thursday 07 April, 2005.**

"Today, most women end up using the anti-dowry law to book husbands for maltreatment even if dowry is not the cause of marital breakdown. Thus anti-dowry law has not curbed the giving and taking of dowry. It has only provided a strong weapon for revenge in the hands of wives against their husbands and in-laws, whether or not their conflict is over dowry. Lawyers and even police routinely advise families to list 'dowry demands' as the primary cause of marital violence, even if in actual fact this is not at all the case, or is only a relatively minor factor in marital conflict"

- **Madhu Purnima Kishwar. Manushi, Issue 148. (Published July 2005 in India Together)**

"For women there are many laws to deal with such problems and many bodies like the Women's Commission and the women's grievance cell, while there is no facility for men who face problems from their wives"

- **Aruna Mukherjee. Pirito Purush Poti Parishad (Forum of oppressed husbands). "Battered husbands join hands to take on 'better' halves." Express India. Thursday, June 16, 2005.**

"Matrimonial offences where a woman is not physically assaulted should be compoundable and bailable."

"There is a growing tendency among women, which is further perpetuated by their parents and relatives, to rope in each and every relative, including minors and even school going children of distant relatives"

- **Justice J D Kapoor, Delhi high court. "Check dowry law misuse by women: HC." Times News Network, Thursday, May 22, 2003.**



"Anti-dowry law has not curbed the "giving and taking of dowry. It has only provided a strong weapon for revenge in the hands of wives against their husbands and in-laws, whether or not their conflict is over dowry" - **Madhu Purnima Kishwar.**

"It is unfortunate that more and more people are misusing the stringent provisions of the law out of sheer spite," says Ajaib Singh, head of the Women and Child Support Unit.

"People generally make use this law to facilitate a divorce. And often, it's the lawyers who advise the women to implicate their in-laws under the provisions of this Act," says Shantosh Singh, chairperson of Women Welfare Counseling Cell at Sector 17.

Lawyers also admit that the stringent laws against the dowry are misused to a great extent," There are only 10 per cent cases based on truth, and people

usually come to us and ask specifically to mention the element of dowry in their divorce petitions," says Amrikh Singh Kalra, advocate at Punjab and Haryana High Court.

"Most of the cases are fabricated and the element of dowry is exaggerated in them. Basically women want to have a quick solution to their problems and the laws against dowry provide the easiest way out," says advocate Amarjit Singh Jattana.

There are many who feel that legal luminaries should find

out ways to prevent the misuse of this Act. "With so many people filing cases under this Act, there may come a time when we begin to suspect even a genuine case," says Ajai Singh.

- **Nazir Ahmad Rather.** "To do(wry) or not to do(wry), that is the Act." Chandigarh Newsline. <http://cities.expressindia.com>. Monday, February 20, 2006.

The chairperson of state woman commission (Orissa) says cases of husbands being tortured and harassed are on the rise, especially in urban areas of the state. Over the last five years 519 cases of torture against husbands have been registered.

"It's high time that there should be forums where these victimized husbands can seek justice and law should also be made to deal specifically such situation," says lawyer and Lok Sabha MP, Brahmananda Panda.

- **Jajati Karan.** CNN-IBN news. "Victimized husbands an ugly reality." Thursday, February 16, 2006.

In several complaints, the husband states that the wife has threatened by saying that all laws are in their favor and they can do anything. Pandey says in most of the cases the husband blames his in-laws accusing the wife of acting at their behest. They complain that the in-laws want to interfere in their life. They want the husband to listen and follow their advice, she added.

- **Manish Sahu.** "Complaining hubbies turn to Mahila thana for solace." Lucknow Newsline. <http://cities.expressindia.com>. Tuesday, February 14, 2006.

Counselors at the Maharashtra Commission for Women, setup to help women harassed by men, are having a tough time these days. Besides women, they have men queuing up with complaints against their partners, wives, girlfriends and even mothers-in-law. And of the complaints filed by women, many are turning out to be false.

"In quite a few cases, women are filing complaints which are not only motivated but quite misleading — just to harass

men deliberately," said the MCW Member Secretary Sudha Bhawe.

- **Aditya Ghosh.** "Men seek help. Is women's panel listening?" DNA Mumbai, Monday, February 13, 2006.

The Supreme Court today warned that misuse of anti-dowry laws could unleash a "new legal terrorism". A division bench of Justices Arijit Pasayat and H.K. Sema said provisions in the laws are often being misused to settle personal scores.

"that does not give a license to unscrupulous persons to wreck personal vendetta or unleash harassment," the bench said.

The judges said "it may become necessary for the legislature" to find "appropriate" ways to deal with people behind "frivolous complaints or allegations", as the laws do not give any directions in this regard.

"The object of the provision is prevention of the dowry menace. But many instances have come to light where the complaints are not bonafide and have been filed with an oblique motive. In such cases, acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Some times, adverse media coverage adds to the misery," the judges said.

- **R. Venkataraman.** "Dowry law no licence to settle scores: SC." The Telegraph. Friday, July 22, 2005.

"The fact that we issued a warning should be an indication of how widespread the problem is," says John Peters, the US State department's citizen services specialist for India.

- **Lisa Tsering.** "Indian Husbands from U.S. Fall Victim to Dowry-Immigration Fraud in India." IndiaWest, December 30th, 2004.

Referring to the provision of arrest, the Court said it has been much abused and exploited by the police in offences related to section 498a/406 (cruelty by husband for dowry/criminal breach of trust) of IPC where all relatives including husband and even old or minors are arrested.

Emphasising that unless the allegations are of "very serious nature" and "highest magnitude", the arrest should always

be avoided”, the Court observed “arrest of a person for less serious or such kinds of offence or offences which can be investigated without arrest by the police cannot be brooked by any civilized society”.

“Power to arrest is altogether different than the need for arrest,” the Court observed and added “no authority howsoever powerful or mighty can be allowed to deny a person his liberty as it hits at the very foundation of democratic structure”

- **“Arrest should be avoided until very necessary”:** High Court. <http://www.dailyexcelsior.com> November 26, 2005

“About 80 percent of total cases of alleged dowry deaths in Vaishali district are lodged by so-called victims’ relatives for blackmailing the in-laws,” says the Vaishali SP Shobha Ohatker.

Talking to TNN here recently, the SP said that there is a trend of levelling allegations of demand of money as dowry in most of the cases. Married women often do this under the pressure of their “greedy” parents, she added.

- **“Majority of dowry cases are false”:** SP. The Times of India. Cities: Patna. Tuesday, August 19, 2003.

In some cases lawyers have been appalled to find elderly relatives of the husband and even visiting relatives of the husband implicated in the case. In some cases the husband and his family are virtually being blackmailed into coughing up money and reach an out-of-court settlement.

Eminent lawyer Bishnu Charan Ghosh says, “As a lawyer I have never come across such gross abuse of any of the provisions of any Act as I am experiencing in 498a IPC cases”

- **“Some brides are ‘villains’, not victims: lawyers”:** The Times of India. Cities: Kolkata. Wednesday, May 01, 2002. DS

Sociologist Bula Bhadra believes that domestic violence against men is yet to become a public issue. “If we go by the numbers, it’s still a private issue. I believe anyone can be abusive. We need to look at the bigger picture. We have to take into account the power relations — whoever is in

the dominant position in a family structure, be it a man or a woman, will tend to use his or her power to inflict hurt on the other. But as women are gaining more power today, we can see a ‘fear psyche’ working among men.”

Aruna Mukherjee, a senior advocate at the Calcutta High Court says, “I have been practising law for many years. I have seen innumerable cases where women misuse Section 498 A. I always felt that there should be a forum for men... Women do cause great harm to men and contribute significantly to the breakdown of marriages.”

- **Anirban Das Mahapatra.** “Help! My wife beats me” The Telegraph. Tuesday, December 13, 2005.

To know more facts about 498a, search the Internet for:

- **“498a”**
- **“Misuse Dowry laws”**
- **“Elder abuse India”**
- **“Misuse of 498a”**



## 12. DOMESTIC VIOLENCE LAW - A SHIELD OR A SWORD?

Feminist organizations have unequivocally and unanimously hailed the implementation of the Domestic Violence (DV) Act in India. They claim that this law will empower victims and protect them from abuse.

Most people in their right state of mind would agree that domestic violence in a relationship is not acceptable. It is only fair that for their own mental and emotional health and for the well-being of the children, that the victims be protected from abusive partners.

On the face of it, the law appears to be a blessing for people in abusive or violent relationships. However, a careful analysis reveals that, under the ploy of “women welfare”, this law is yet another misguided attempt to enact legislation to grant women legal supremacy over men and to create a society where men are deprived of their rights.

There are three fundamental problems with this law – a) it is overwhelmingly gender biased in favor of women, b) the potential for misuse is astounding and c) the definition of domestic violence is too expansive.

The DV act singles out men as perpetrators of domestic violence and assumes that only women are victims. As per this law, only a woman can file a complaint against her male partner. A man, who is a victim of domestic violence, has no rights under this law. According to this law, it’s permissible for a wife to nag, insult and even physically abuse her husband. The fact is that it has been comprehensively proven in numerous studies [please see references] that women are no less abusive as men in intimate. Giving such sweeping legal powers to women, while withholding protection to male victims, is tantamount to systematic legal victimization of men. In the western world, the domestic violence laws are gender neutral and provide protection to the victims, both men and women. The fact that the Indian version explicitly prohibits any male victim to seek relief under this law defies all logic and is beyond comprehension. The upliftment of deprived and disadvantaged women is a noble goal but empowering women by victimizing men is gross injustice.

The second significant flaw in this law is that it lends itself to such easy misuse that many women will find it hard to resist

the temptation to “teach a lesson” to their male relatives and will file frivolous and false cases. A similar trend is already being observed in the case of anti-dowry law (498a), which is being misused to such an extent that the Supreme Court has termed it “Legal Terrorism”. To illustrate how easy it is to misuse the DV law, consider the scenarios below. [She means wife/female live-in partner and he means husband/male live-in partner]

- a) If she demands any amount of money from him, for any reason whatsoever, he is legally bound to pay that amount in full, failing which he can be imprisoned. Under the pretext of preventing economic abuse of women, this law legalizes the extortion of money by women. Interestingly, if he asks for money from her, he can be jailed for that as well. Furthermore, he is responsible for paying the rent if the couple resides in a shared rented accommodation.
- b) As per the law, she retains the right to the residence. This is a very convenient means of getting control of the house regardless of whether she has any legal right on the property.
- c) If she decides not to cook and wishes to eat out in a restaurant everyday, he cannot afford not to oblige, lest he invites the DV provision for “not providing food”, for which he could be jailed.
- d) If she has an affair and he tries to prevent her from meeting her lover, he could be punished under the DV act, as he is preventing her from meeting someone.
- e) He can be booked under the DV act if she feels that she has been insulted. Insult is a relative term, which is totally left to her discretion. Interestingly, if she insults and abuses him verbally or even physically, he does not have any legal recourse in this law.
- f) Divorced wives and former girl friends can legally claim a right to live in the residence of the man, if she has ever cohabited with him in that house. This

can potentially be done after 5, 10, 20 or even 50 years after the relationship has ended.

These are just some of the ways in which women can exploit men in a legally permitted manner. The fact that the complaint by a woman will be treated, *prima facie*, as “true and genuine” opens up a whole new realm of possibilities where innocent men will be accused and implicated in false cases, just because they refuse to give in to her unreasonable demands. In fact, it is legally possible for the wife’s paramour to make a complaint against the husband (of course, with the active support of the wife), get him kicked out of the house and then move in the house, while the innocent husband is forced to pay the rent while he languishes in jail. The likelihood of large scale misuse of this law is phenomenal given the sloppy drafting.

Most people, including the ones that helped draft and push the law in the parliament, readily agree that the law will be misused. Their counter arguments generally are

- a) The number of misuses will be very low OR every law is misused – The objective of any law should be to punish the guilty and protect the innocent. The persecution of innocents cannot be justified in any circumstances. As is the case with 498a, this law will be heavily misused in urban India. Statistics prove that more than 90% of the cases filed under the dowry law (498a) are false [see references]
- b) If she is happy, then why will she file a complaint – Ah ! So, the man exists at the mercy of the woman. If the wife wants to kick out old parents from home or wants to pursue an affair and should the man dare to object, she can get him incarcerated with alacrity. Any law that forcefully subjects a section of a society to conduct as per the pleasure of another section is deemed oppressive and should be vehemently opposed.
- c) There are other provisions to deal with the misuse of this law – The fact is that there are other legal provisions to deal with domestic violence as well. If a strict law is made for a specific purpose, then the provisions for dealing with its misuse should be in the law itself.

The third major flaw in this law is that it provides an all-

encompassing definition of domestic violence and some terms (insults, name calling) are extremely subjective. The radical feminists claim that 70% of women in India face domestic violence. While these statistics can not be confirmed [pls see references], however, given that even an insult is considered domestic violence, it is clear that this number has been really blown out of proportion. Interestingly, they are silent on how many Indian men suffer domestic violence using the same criteria. Nagging wives are a well known phenomenon and it would qualify for verbal abuse as per this law, which would mean an equally high number of men are victims of domestic violence. If the criteria for defining domestic violence, as per this law, are to be believed, then practically every man and woman in a relationship is a victim of domestic violence !! The fact is that these statistics are not an accurate reflection of the social conditions. They seem to have been conveniently misrepresented to promote vested interests.

This law strikes at the very foundation of marriage by promoting intolerance and litigation for petty domestic disputes. It is universally recognized that from time to time differences arise in a marriage and sometimes people, both men and women, behave in hurtful ways towards each other. Most people, though, are able to work them out and lead a more or less happy life with their loved one. However, this law makes it very easy to escalate the domestic problems in daily life to such a level that it eventually leads to a breakdown in marriage. Once a man has been accused of domestic violence for a something relatively minor (insult), while he might have been subjected to the same treatment from her, he will perpetually feel threatened by his partner and that is the beginning of the end. This law will lead to more divorces, broken homes and the children will pay the ultimate price by getting robbed of a happy childhood.

There are degrees of domestic violence and not all conflicts in a relationship can be termed as domestic violence. This law trivializes the issue of domestic violence by including minor differences in its realm and by explicitly denying protection to half of the population.

The law in its current form is grossly inadequate to tackle the problem of domestic violence. It imposes a lot of responsibility on men, without giving them rights. On the other hand, it gives lots of rights to women without requiring them to be responsible. At the very minimum, it should be made gender neutral, offering protection to both men and women. Also, provisions for stringent punishments need to

be incorporated into the law to prevent misuse. Moreover, the law needs to be made more practical by differentiating between various degrees of conflicts and by unambiguously defining what constitutes domestic violence.

The fact is domestic violence is a serious problem and a neutral and unprejudiced law is needed to protect the genuine victims of domestic violence, irrespective of gender. The perpetrators of domestic violence need to be appropriately punished and dealt with. At the same time, protection cannot be withheld from real victims for any reason whatsoever, least of all their gender. One can be certain that there is something sinister about a law, when it intimidates and instills fear in innocent people. When a person who has not committed any crime, begins to fear punishment under the provisions of a law, it is not a law anymore – it is state sponsored terrorism.

## References

1. Study that shows that in India, women are much more violent than men (<http://pubpages.unh.edu/~mas2/ID41E2.pdf>)
2. The US Govt. National family violence surveys of 1975 and 1985 (<http://www.ejfi.org/DV/dv-21.htm>).
3. Various studies on domestic violence conducted by the University of New Hampshire (<http://pubpages.unh.edu/~mas2/ipv-violence-by-women.htm>)
4. Ms. Renuka Chadhary's interview by Mr. Karan Thapar [available on the 498a.org videos section - <http://www.498a.org/video.htm> ]
5. Statistics presented by the feminist organizations in India to justify the Domestic Violence Law, are proven false and the United Nations issues a clarification. [<http://www.mediaradar.org/alert20061113.php>] [<http://washingtontimes.com/corrections/20061128-102228-2806r.htm>]

## 13. A FEW TRUE STORIES OF 498A VICTIMS

**See how innocent men and women are victimized by the draconian 498a law. See for yourself how easy it is for a wife to use this case to destroy an innocent man and his complete family. Look at how distressed people are when they contact us (some even considering suicide). Look at failed relationships, failed marriages and how kids just become pawns in the hands of unscrupulous women. Look at all the injustice that has been meted out to these families and see how some of them were betrayed by someone they considered their own. All cases are different but still have one thing in common – They are all victims of the legal system in which they are presumed guilty without even been given a chance to present their side of the story.**

### **WIFE USES NRI HUSBAND FOR IMMIGRATION VISA AND 498A's HIM – HUSBAND'S MOTHER HOSPITALIZED**

*A Victim from Singapore*

I am an NRI. I would like to draw your kind attention to the extreme abuse of anti-dowry Section 498a of IPC with my case. I am among many of the hundreds of thousands person whose whole innocent family is tortured just on a false complain if the wife is unable to adjust with her husband. The sufferers have to go under harassment and extreme stress after being held in police lockup and jail without any ground of proof and these people are assumed guilty by law. Is this justice to innocent senior citizen of India? Please go through my what happened to my innocent parents and brother after 14 months of my separation with my wife. I hope necessary actions are taken to prevent the misuse of any law. These incidents are now very common and many people are suffering because of such blind laws.

I am working as IT professional in Australia since last seven years. I completed my education (MCA) in India and have been in good job since then. I am currently

in Sydney. My parents are living in Faridabad. I got arranged marriage in India Oct 2001 and sponsored my wife, PS, to come over to Australia (on permanent residency visa) to live with me. We stayed together for eight months and during that period I found her to be extremely dishonest, unloyal, unfaithful, a big liar and greedy for money and it was obvious her intention to marry was just to come over to Australia and for the money. She had been asking me to sponsor her brother to Australia as well and to bear all his expenses on his education and living. There was no love, commitment though I tried my best to compromise with the situation and have excused her on all occasions assuming it may take time for her to adjust.

We went to India in Oct 2002 and there she tried a lot of trouble by creating misunderstanding between brothers, their wives and started stealing jewellery and cash from home to take it to her mothers place. Have been talking vulgar about my mother and brother. Then she was involved in a horrifying crime by secretly stealing and then destroying the passports of my younger brother and his wife. They are living in USA and where also on holidays there. My brother is working as software engineer in Chicago. She did it just two days before their departure and my brothers whole career was in danger as he could not go to USA. It is a long process to get the new passport issued and then get visa processing again. It was a mental torture for all of us. It was not known where the passport have gone until three days when the time came for me and my wife to come to back to Sydney. Our luggage was packed it was just five hours before our departure when we were getting ready and I found a trace of torn passport photo inside the toilet. It took me no time to understand by her activities that it was her act. I had to postpone our return to Sydney. I called my father-in-law and sent her back (Nov 2002). I have all the proofs with me that she has damaged the passport. She has tried to torture everyone in the family by her cruel and criminal acts. I then came back alone to Sydney in extreme stress.



I regretted a lot for marrying and loving such a stupid girl. She contacted me many times after that and asked me to call her back to Sydney. But her intentions were still clear. I can not live whole life with her. I am Australian citizen and by the Australian laws (validated by Indian law as well) I applied for divorce at the earliest possible date and had sent her notice on 16 Dec 2003 in Gujarat where she lives. The notice was received by her. Later suddenly on 14<sup>th</sup> Jan 2004, police and lawyer from Indore came and arrested my aged parents and my youngest brother who lives in Faridabad and within few hours took them to Indore. They have to get me as well but since I am in Australia, they can't arrest me. My wife had filed a false case of torture in dowry case under section 498A in Indore (Though her residence is in Unjha, Gujarat). She put a false allegation that I and my parents and have beaten her many times and even have tried to burn her for demand of dowry. I or my parents or any family member have never ever touched her with any bad intentions. She has accused this allegation after 14 months of separation upon receipt of divorce notice. She didn't even mention the fact, the real reason for what she was sent back to her fathers place. Rather she said that she came back herself. Though I have enough proofs for my claims. When my wife had spend just about initial month or two in whole of our married life with my parents. Also she had been separated and staying away for more than a year.

I was extremely shocked. I do not have nor my parents or brother have even touched her anytime with any intention of beating or burning. We are from respectable family. My father is retired engineer from Dept of Atomic Energy. My brothers are well settled and are earning extremely well.

She did such criminal act, still being decent we sent her back respectfully with her father when we separated. If we would have been strict, we could even have got her arrested for destroying passports. But still we respected her being a woman.

It was a brutal torture to my innocent retired aged parents and my innocent brother. Without any notice they had to travel from Faridabad to Indore in police custody for three days a distance of about 900km in police vehicle. My mother is heart patient and is under

treatment. She was extremely exhausted; it was a big risk for her. How can police just come and arrest and torture anyone just on someone's fraudulent and false allegation. Later my elder brother had to go from Rajasthan to get them released on bail on 16<sup>th</sup> Jan after spending one night in lockup and three days in police custody.

My parents have lived a very clean and respectful life but now have to see such a days. It is big slap on Indian judiciary that they can just destroy anyone's dignity and can prosecute without trial. There is no respect for senior citizens who have served the country for the whole life. At the same time the legal system have a blind faith on crook, cunning young married women and her parents. I am feeling dismay. My aged parents and brother have to suffer who have nothing to do with my wife. My crook wife and her greedy parents aim is to get me and extract a lot of money from me.

As a figure in India, almost 90% of such cases are dismissed by the court after find the case as malicious, but there is no punishment of making false allegations. Almost all the divorce ends up in 498A, where the reality is that dowry is not practiced and hardly any women are harassed in educated well earning family in urban area. And of 90% cases the police get a good excuse to harass any respectable person and then to discharge them after harassing. Lawyers and police are making a big money by trapping innocent citizens.

She was successful to get the complaint lodged at Indore and the police from other state came and arrested my parents and brother without permission of local police in Faridabad. Also a copy of FIR is still not been handed over to us.

In the ongoing crises my aged mother in India was admitted in hospital with severe cardiac pain and abnormal blood pressure on 22nd Jan'04 while they have to arrange lawyers and plan the visit to attend the next date 29<sup>th</sup> Jan with a notice of just 7 working days to be attend in Indore 900km far from our place. My mother's health is so severe that she is going to be operated today on 23rd Jan. Not attending will weaken our case. Who is going to look after my mothers and aged father health?

As I am also the accused in my wife's complaint, I can't

go there in India as the police will arrest me. I am just helpless. As such there is no fair judicial or law system in India. It's against the basic right to live with respect.

### **WIFE KILLED CHILD FOR EXTORTING MONEY**

*A Victim from Pune*

Following has happened with me and my family till date.

1. Married in Feb 2003 according to Hindu rituals. This was arranged marriage.
2. Within the first month itself she ran away from my house AFTER MIDNIGHT FOR NO REASON and came back after 3-4 hours.
3. I tried to enquire the reason, she said, this marriage was against her will and she wanted to marry someone else.
4. When my parents tried to sort the matter out, she kicked my father. Aggrieved by such abusive behaviour, my father (and other family members) disconnected relations from me.
5. My father in law demanded 15 Lakhs, saying that we want to remarry our daughter to someone else. So, give us this much amount OR we will implicate you in false dowry harassment cases.
6. As my wife was pregnant at that time, she threatened to pay her Rs. 15 Lakhs and divorce otherwise she will kill the child.
7. I filed a police complaint regarding this, requesting police to save the unborn child. But Police didn't take any action. So, I tried to put my request in the court, there too a LONG date was given. MEANWHILE, the delivery time came and she was at her parent's house. THEY REALLY KILLED THE CHILD, as I was not ready for divorce and not in a position to pay that much amount.
8. After doing all this things, no department/officer is paying attention to my request. My in-laws are still making their unlawful demands. Case is in the court and 'Date after Date' is going on. Till date I am feeling depressed because of all this. I wonder what was the fault of the new born, who was killed by them at the time of birth. It was a baby girl.
9. Currently I am running from pillar to post in hope of justice. As they are politically very sound, sono one is

paying attention to my case.

10. At last I can conclude that due to this blackmailing tool in the form of 'false dowry harassment complaint + arresting of all accused without enquiry' (as no one in our family history been to police stations or Jail), I have lost my relations with three generations i.e. My Parents (and in-laws) + My brother (and brother in laws) + My daughter (Already killed). In future too I don't think that they will understand the importance of "Family Harmony".

### **HARRASED HUSBAND TRIES TO COMMIT SUICIDE – WIFE 498A's HIM**

*A Victim from Hyderabad*

I got married in February 1998. I am from Andhra and she is from Maharashtra. Immediately after my marriage I went to Malaysia because of my job. She joined my after few months. We got a child and now he is around 5 yrs old. When she was with me in Malaysia she always used to take lot of money and used to send to her parents without my knowledge. My uncle had taken a loan of around 3 lakhs from me in various occasions when she was with me. But I have only few receipts of around 1.5lakh as it happened few years back.

My wife always used to suspect me and made several insults in front of my colleagues and friends. Whenever I come to India for few days also she always used to insist to take either separate house or stay outside for staying rather than at my home. She used to insult my parents and my sisters when they met me or I was with them. One time when I came to India and I forcibly brought her my home to stay for few days, her parents came to my house and created lot of fuss, shouted at my parents & me and insulted in front of my relatives & friends. I couldn't bear this and tried to commit suicide. Somehow I got survived and I came to home. As soon I reached home they started shouting again and took her daughter along with them. This incident happened in October 2003. I tried to mediate with them through some elders of my community but they refused to send their daughter and they insulted the elders whom we sent to them.

got fed up all this and then applied for divorce on mentally cruelty grounds in Oct 2003 itself and left India. As their place is near to Mumbai (not Mumbai, a small town 100 km away from Mumbai) they applied for change of court in Supreme Court. In the mean they filed a petition for maintenance at their place, but I didn't challenge it. The Supreme Court gave the order to change case to Thane, Maharashtra family court. This happened in early 2004. Since the case came to Thane court nothing progressed. Since I applied for divorce I had been trying through mediators to settle the issue and get the divorce mutually. But they never cooperated and everything went vain of all my efforts.

In Nov 2004, my sister (unmarried) passed away because of some health problem. By seeing this mother went to coma. I then came to India immediately and admitted her in hospital on the same night without attending my sister's funeral. My mother went on coma for 3 days. I was in hospital for 14 days with my mother. While in the hospital none from their side came (my uncle is my mother's own brother and they got to know the news on the same day it happened). I even tried one time for negotiation with the through mediators while I was in hospital. But again I was failed. Immediately after my mother discharged (the next day it self), I left India. In the early 2005 I have got Australian Permanent Resident and I moved to Australia. Since then I kept on sending the maintenance allowance to her from Australia. But they refused to take. In the mean I applied for divorce from Australia itself and I have got divorce from Australian Court in November 2005. By seeing my divorce petition my wife file a false case, 498A against me and my parents in Nov 2005.

The Maharashtra Police came in the mid of the night and arrested my father. They tried to arrest my mother but seeing her health condition (she is quite old and can't even walk properly). My father spent one week in the police station. In the one-week the Police again to my place (from Maharashtra to Andhra) brought my father to my home one more time for taking their things from my home (They took lots of things even I bought for my home also like TV, fridge, Washing Machine, etc.,). The Police even tried to took the money from my NRI account and locker (my wife knows well about my

savings in my NRI account and locker). But the bank Manager refused to handover to Police as they didn't have court orders. I engaged one lawyer who resides in Mumbai (took lot of money but did nothing much, as we don't know any body in Mumbai/Maharashtra). After a week my father came out on bail. I engaged one more local lawyer again there it self as my lawyer couldn't show much interest again (I feel he might have joined with them). Since then my father attended one time for hearing. We again started negotiating with them again. This time they sent a mediator to us and told a huge amount for mutual agreement. I spent most of my savings for my family, their family and to Lawyers. Now the amount they asked which I simply can't give as it is impossible for me.

Yester day I heard from my lawyer that they filed a petition in Maharashtra court to Passport Office, Hyderabad to cancel my Passport, so that I can come to India. Now I want to seek help/guide from you all in this matter. Ever since I married and even I got the divorce from Australian Court also I am still mentally getting tortured. So my dear friends pls help me in this regard as I am very frustrated now. I need your advice, suggestions. I can't trust anyone in India except you all as you are like me.

## **AMERICAN WOMAN MARRIED TO INDIAN DUMBFOUNDED BY INDIAN LAW**

*Victim from USA*

I am writing to you because I have reached a desperate level and I have nowhere else to turn. I am an American married to an NRI. I have only traveled to India once, and that for less than 2 weeks. This trip was a happy occasion, one that allowed me to meet my husband's family and to get to know them and vise-versa. Since my departure from India my life has been a nightmare. My family and I have become victims of the rampant misuse of the 498A laws in India. My brother-in-law's wife and her family have falsely accused my family of some sort of abuse and are demanding obscene amounts of money to settle this fraudulent case. My 54-year-old mother-in-law has been imprisoned for over two weeks now and I have been told that she will remain there indefinitely. She is a diabetic widow whose health is failing. I must be quite frank with you, she is dying. I have been informed that the only

way to get her out of prison is to settle with my brother-in-laws wife and her family. I have been told that if I do not do this, my mother-in-law could spend up to 3 years in prison for a crime she did not commit. She has been arrested and imprisoned based solely on the statements of a deceptive young woman who is looking only for financial gain at my personal expense. There has been no investigation of any kind. No evidence to substantiate her fraudulent claims. It is simply her word. I ask you, what should I do? I have an attorney in New Delhi working on this case but I feel he may not be the best in this area because he seems to be continually blindsided by the other side. In the United States this type of activity is called extortion and I would be able to bail my mother-in-law out of prison while the charges were being investigated. I have been informed that in India people accused of 498A charges are "guilty until proven innocent". Do you have any suggestions on what steps should I take in this unfortunate situation?

#### **HOPE AT LAST – ADULTEROUS WIFE TAKEN TO TASK**

*- Victim from Jharkhand*

I had caught my wife living in adultery with my friends in Dubai on 23rd April, 2005. Have letters and mobile recording of her. My daughter is eye-witness to her unbecoming behaviour. She accepted her fault, and I told her that I shall now seek divorce. Brought whole family from Abu Dhabi on 28th April, 2005. She was left at Her parent's house. I took my children with me. Two days later, she was to meet at Family court to discuss mutual consent divorce to save the face of her family. After 4 days, I was summoned by Police of her area as she has filed CR106/2005 under IPC498a on 4th May\2005. My lawyer told me to proceed to my work. I was arrested like a terrorist at Mumbai airport at Immigration on 7th May, 2005. I surrendered. Was brought at Police Station, and put behind bar along with hard-core criminals. My relatives came, including lawyer. My children/cousins sang bhajans/prayed outside the jail. It was there I learnt what IPC-498a is, and what devastating blows it can land on one's life!! but I got bail.

Next day, I hired a local lawyer thru the help of same police station, paid hefty amount only to apply for return of passport. Again, God's hand was seen - Judge heard my prayer which I myself narrated, and

granted me permission to go back to work abroad with conditions to retain my children in India. I obeyed the order.

I got my children admitted in residential school outside Mumbai. Filed Divorce under cruelty/adultery on 15th June\05. Attended 498a charge-sheet filing on 16th June\2005. My Wife later filed children custody and maintenance petitions in family court. Later, She applied 3 Interim applications. I attended family court on 1st Dec\05. She later went to High Court, and managed thru wrong means a stay order on my NRI-SBI Bonds. I attended 498a trial on 23rd Jan\2006. It was usual drama of attendance with long date after 6 months!

I attended family court on 24th Jan\2006 along with my two children. Again attended family court on 13th Feb.\2006 along with children. I was made to bring children to court on both occasions! Returned her passport, and disclosed whereabouts of children to her before court. I challenged her Stay Order in Appeal Court on 15th feb\06 and exposed her lawyer's fraud of getting Stay-order to frustrate me! HC accepted the appeal and fired/warned her lawyer. HC asked us not to come to HC again, and to rely on family court verdicts. Main trial has yet to begin.

I guess, mentally I am in strong position - for the reasons that I still have my jobs, my children are studying well, healthy, happy and are on my side. Today, my children hate their biological mother, and hardly miss their mother. My daug. Is 13-1/2 yrs and son is 10yrs. Now the ball is in her court. Unless she quashes 498a in HC, no settlement is possible from my side. I am ready to prove her fault.

I suggest all victims not to give up, never think of suicide etc. Truth always wins, though it has to traverse thru troubled waters. Have firm faith in god, and proceed with right action, and 'chaankya neeti'.



# 14. REFERENCES AND RESOURCES

## Collection of News Article References:

<http://www.498a.org/newsArticleReference.htm>

## Interviews:

Victim Interviews: <http://www.498a.org/video.htm>

## Blogs:

<http://presentindia.blogspot.com/>

<http://savemarriages.wordpress.com>

<http://498a.blogspot.com/>

<http://batteredmale.blogspot.com/>

<http://stannoxane.blogspot.com/>

## Research Reports

[http://www.498a.org/contents/publicity/498a\\_YehKaisaInsaaf.pdf](http://www.498a.org/contents/publicity/498a_YehKaisaInsaaf.pdf)

## Informative Sites:

<http://www.498a.org>

<http://www.mynation.net>

## Books:

Who Stole Feminism – Christina Summers

Myth of Male Power – Warren Farrell

## Some Key Studies:

- Collection of around 200 news articles: <http://www.498a.org/newsArticleReference.htm>
- Study that shows that in India, women are much more violent than men: <http://pubpages.unh.edu/~mas2/ID41E2.pdf>
- Nearly 200 studies around the world show that men and women are equally likely to engage in partner aggression: <http://www.csulb.edu/~mfiebert/assault.htm>
- The US Govt. National family violence surveys of 1975 and 1985: <http://www.ejfi.org/DV/dv-21.htm>
- Various studies by univ of New Hampshire: <http://pubpages.unh.edu/~mas2/ipv-violence-by-women.htm>
- “When She Was Bad – Violent Women and the Myth of Innocence”, written by Patricia Pearson, a self-described feminist

## NRI Harassment:

[http://www.498a.org/contents/paperArticles/NRI\\_binder.pdf](http://www.498a.org/contents/paperArticles/NRI_binder.pdf)

<http://www.498a.org/contents/paperArticles/LettersToGovernment.pdf>

[www.498a.org](http://www.498a.org)

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