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Drawbacks and Misuse of Legal Enactments Originally Made to Protect Indian Women

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ABSTRACT

In the realm of gender justice, laws have primarily focused on safeguarding women, yet a lesser-known narrative emerges concerning men grappling with false allegations and law misuse. This research delves into the motivations behind false allegations, examining their societal impact. Through case studies and legal precedents, it advocates for a balanced approach to gender justice, ensuring fairness for all individuals. Analyzing provisions in the Indian Penal Code, 1860, and the Bharatiya Nyaya Sanhita, 2023, alongside recent judicial interventions, it underscores the need for legal reforms to protect the rights of all genders.

Keywords: *False allegations, Indian Penal Code, 1860; Misuse; Legal safeguards, Bharatiya Nyaya Sanhita, Gender-based laws, Misuse prevention.*

I. INTRODUCTION

In the landscape of gender justice, where laws historically centred on protecting women, there's a growing recognition of the misuse of these legal provisions against men. This research initiates by exploring the motivations behind false allegations and the repercussions of such misuse on individuals and society, analysis of misuse patterns and trends, followed by the examination of the impact on men.

Furthermore, this research delves into the legal framework, both Indian Penal Code 1860 sections- 498A, 354A, 211, 182 and Bharatiya Nyaya Sanhita 2023 sections- 86, 74 as well as discussing the provisions and safeguards available for victims.

Lastly, this research follows with an analysis of judicial responses to these issues and concludes with suggestions for reform. Through an examination of key judicial reviews including *Sushil*

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Kumar Sharma vs. Union Of India and Ors., the research underscores the evolving legal landscape and the judiciary's role in upholding justice. By advocating for reforms that promote equity and accountability within the legal system, this research aims to contribute to the ongoing discourse on gender justice.

II. MOTIVATIONS, MISUSE PATTERNS AND TRENDS

In the age of Information and Technology, it is being observed that laws are being misused by some women, across the world, often influenced by their lawyers' ill advice, online self-proclaimed support groups, and highly opinionated comment sections. Historically, societies in India and around the world have been patriarchal. However, this is gradually changing. Though altering long-standing customs and beliefs can be challenging, it is not impossible. After all, over time, evolution occurs not only in the physiology of living beings but also in beliefs, society, and nature as a whole.

Theories are useful tools that help us understand and explain different topics and ideas. Although sometimes they refer to untested or new concepts, theories help us make sense of the world. When it comes to law, crime, and women, two important theories to consider are -

- i) Masculinity Theory
- ii) Double Standard Theory

Masculinity theory involves two main ideas; that crime is seen as inherently masculine, and masculinity often drives criminal behaviour. Traits like daring, toughness, and aggression, which are associated with criminality, are traditionally considered masculine. This theory was proposed by Talcott Parsons in 1947, who linked the higher delinquency rates in boys compared to girls to the structure of the American nuclear family. Parsons argued that women are primarily responsible for nurturing and socializing children at home, while men are expected to provide financial support by working outside the home. This gender-based division of labour affects boys and girls differently, leading to more rebellious behaviour in boys.⁵

Double Standard Theory is where Pollak posited that women's crimes were often marked by deceit and double standards. He argued that due to physical weakness, women may resort to deception, while their physical charm can be used to attract victims. Additionally, Pollak suggested that frustration, envy, and false accusations against men contribute to female criminal behaviour.⁶

⁵ Ngaire Naffine, *Female Crime*, Allen and Unwin, Sydney, 1987, pp. 43 - 63

⁶ Ram Ahuja, *Criminology*, Rawat, Jaipur, 2000, pp. 142

To date, numerous laws have been enacted to address crimes against women, including rape, workplace sexual harassment, domestic violence, and dowry cases. Advocacy against these crimes has been prominent. However, there has been a failure to recognize that men can also be victims of sexual abuse, domestic violence, and false accusations. Despite the Indian Constitution's provisions for equality among all citizens, the statutes, laws, and societal perceptions of victims and perpetrators differ based on gender. This inconsistency prompts a critical question: while being retrospective is - had, has and will equality in the most literal sense ever exist?

Allegations made by women against their husbands or in-laws are treated with a significant degree of gravity within legal frameworks, originally instituted to provide a protective shield for women. However, contemporary trends suggest a misuse of this mechanism, with some women employing it as a tool of offense rather than defence. This misuse has led to a notable surge in cases concerning dowry and domestic violence, many of which are uncovered as fabricated, designed to inflict harm upon men or settle personal grievances.⁷

The prevalence of false accusations, particularly in matters of dowry, domestic violence, or rape, has instilled a pervasive sense of fear among men. This apprehension is further exacerbated by a deliberate perpetuation of fear by certain societal factions, collectively known as the "498A ecosystem." This ecosystem comprises various actors, including legal practitioners, feminist advocates, law enforcement personnel, media entities, women, and their families, all of whom stand to benefit from the perpetuation of fear.

The issue of false allegations in sexual violence cases is highly contentious and multifaceted. Studies indicate that motivations for such accusations often span five overlapping categories:

- i) Avoiding trouble or providing an alibi
- ii) Seeking revenge fuelled by anger
- iii) Attention-seeking behaviour
- iv) Mental illness
- v) Feelings of guilt or remorse.

Upon closer examination of specific cases and their subsequent resolutions, it becomes apparent that the motivations behind false reports are nuanced and intricate. They frequently stem from a need to alleviate social or personal distress.

⁷ Mansi Batra , *Understanding Crimes Against Men* [Online], <https://www.legalserviceindia.com/legal/article-3512-understanding-crimes-against-men.html> [accessed May 18 2024 at 09:13 pm]

The first motivation behind false allegations, labelled as "avoiding trouble/alibi," encompasses situations where individuals fabricate claims of sexual assault to evade consequences or provide themselves with an excuse. This motivation appears in two main scenarios :

Initially, young girls may falsely report sexual assault to escape repercussions for actions such as violating curfew, engaging in underage drinking, substance abuse, or participating in consensual sexual activities deemed unacceptable by societal norms. By alleging sexual assault, they aim to shift blame away from themselves and avoid punishment or social stigma. Subsequently, older teenagers and adult women may resort to falsely accusing someone of sexual assault to conceal consensual sexual activity with someone other than their current partner. In such cases, individuals may feel compelled to fabricate allegations to hide infidelity or preserve the facade of fidelity within their current relationship. By falsely alleging sexual assault, they seek to deflect suspicion and safeguard their reputation or relationship.

The second motivation, "anger/revenge," arises when individuals use false allegations of sexual assault as a means of retaliation against a current or former partner. This motivation commonly emerges following relationship breakdowns, betrayals, or perceived wrongdoing by the partner. Seeking revenge, individuals may fabricate sexual assault claims to damage the reputation of their partner, inflict emotional distress, or assert dominance and control over the situation.

The third motivation, "attention seeking," involves individuals fabricating sexual assault claims to elicit sympathy, support, or validation from their social circle. This may stem from underlying psychological issues, insecurities, or a longing for emotional validation and acknowledgment of their experiences. Additionally, some individuals may falsely allege sexual assault to access medical treatment, medication, or other forms of support and attention.

In addition to these motivations, mental health issues and feelings of guilt or remorse can also contribute to the fabrication of false allegations. Individuals grappling with mental health disorders, such as schizophrenia, may struggle to differentiate reality from delusion, leading them to falsely accuse others of sexual assault. Furthermore, individuals experiencing guilt or remorse over their actions, such as engaging in consensual intercourse, may falsely claim to have been sexually assaulted as a means of alleviating their guilt or seeking redemption for their behaviour.

False allegations of sexual assault can stem from a complex interplay of motivations, including the desire to avoid consequences, seek revenge, gain attention or sympathy, address mental health issues, or alleviate feelings of guilt or remorse. Understanding these motivations is crucial for accurately assessing the credibility of allegations and ensuring fair and just outcomes

in cases of sexual violence.⁸

There is an interesting set of findings from Data Journalist , Rukmini Shrinivasan. Upon relocating from Mumbai to Delhi to join The Hindu Newspaper, she conducted an investigation to assess whether Delhi's portrayal as the rape capital of India was justified. Instead of focusing on dropped rape cases, she analyzed the 460 cases that underwent full trial in Delhi district courts in 2013, comparing initial complaints to police with courtroom outcomes.

Shrinivasan's inquiry revealed that media exaggeration surrounded stranger rape. Out of the 460 cases, only 12 pertained to stranger rape, a fraction much smaller than anticipated. Her findings on false rape allegations presented a mixed picture. A significant portion of the cases involved young individuals engaging in consensual sex outside of marriage until their parents intervened, using the legal system to terminate the relationship. Shrinivasan observed that families preferred enduring the stigma of rape over accepting their daughters' independent choice of partners.

Many cases revolved around inter-caste or mixed-religion relationships, deemed taboo in conservative society. Parents often followed a common script when filing complaints, depicting scenarios where women were allegedly abducted, given sedatives, rendered unconscious, and then raped. However, Shrinivasan noted patterns in the complaints, indicating the necessity to demonstrate lack of consent through narratives of administering sedatives. Nearly a quarter of the cases involved situations where men reneged on their promise to marry the women, adding to the complexity of the issue.⁹

III. CASES AND EXAMPLES ILLUSTRATING MISUSE OF ENACTMENTS – IN INDIA AND ABROAD

(A) International Cases Of Interest ¹⁰

1. People vs. Dotson ¹¹ (United States Of America)

In 1977, Gary Dotson was convicted of raping Cathleen Crowell, although doubts surrounded the case's integrity. Despite inconsistencies, forensic evidence played a crucial role in his conviction. Years later, Crowell admitted to fabricating her testimony, but Dotson's release was

⁸ Eryn Nicole O'Neal, Cassia Spohn, Katharine Tellis, Clair White (2014) '*The Truth Behind the Lies: The Complex Motivations for False Allegations of Sexual Assault*', Women & Criminal Justice [Online] , (Sept. 04, 2014), 24(4), pp. 324–340. doi: 10.1080/08974454.2014.890161. [accessed May 18, 2024 at 06:30 pm]

⁹ Joanna Jolly, *Does India have a problem with false rape claims?*, BBC News [Online],[Feb. 08, 2017] <https://www.bbc.com/news/magazine-38796457> [accessed May 18 2024, 09:15 pm]

¹⁰ Katie Hail-Jares, Belén Lowrey-Kinberg, Katherine Dunn, Jon B. Gould, (2020) '*False Rape Allegations: Do they Lead to a Wrongful Conviction Following the Indictment of an Innocent Defendant?*', Justice Quarterly, 37(2), pp. 281–303. doi: 10.1080/07418825.2018.1486449. [accessed May 17 2024 , 11:21 pm]

¹¹ *People v. Dotson*, 99 Ill. App. 3d 117

temporary due to misinformation regarding DNA evidence. Dotson's lawyer later utilized PCR testing to demonstrate his innocence, leading to his exoneration in 1991. Dotson's case underscored flaws within the justice system and catalyzed advancements in forensic science.

2. State vs. Banks ¹²(United States of America)

In 2002, Brian Banks, an African-American NFL hopeful from California, struck a plea bargain after being charged with raping his high school peer, Wanetta Gibson. The deal entailed a five-year prison stint, followed by five years of probation and registration as a sex offender. Fast forward to 2011, Gibson reached out to Banks via Facebook and requested a meeting. During their encounter, Banks discreetly recorded Gibson's confession of fabricating the accusation. With the aid of the California Innocence Project, Banks utilized this recording to secure his formal exoneration. Notably Gibson did not face legal repercussions for her false claims.

(B) In the indian judiciary

1. Sejal Sharma vs State of Haryana (2021)

Haripal, a property dealer, had a good relationship with fellow dealers Rajesh and Surender. One day, Rajesh invited Haripal to his flat, where he found Surender and a young girl. After being served tea, Haripal became unconscious. Upon waking, Rajesh and Surender blackmailed him, threatening to circulate compromising videos and photos unless he paid them ₹20 lakhs. Aware of their intentions, Haripal filed a police report against Rajesh, Surender, Sejal Sharma, and Meenu Handa for their involvement in the conspiracy. An investigation by a Special Investigation Team (SIT) revealed the accusations to be false. It was concluded that the petitioner and others had filed a false rape case to pressure Haripal, who already had an extortion case against them. The Punjab and Haryana High Court dismissed the rape case, highlighting the group's racket of blackmailing individuals with false rape accusations to extort money. Additionally, the court found that Rajesh, Surender, Meenu Handa, and Sejal Sharma were operating a honey trap scheme to dishonestly obtain extortion money. As a result, the court advised police to conduct preliminary inquiries before registering any rape cases alleged by the petitioner.¹³

2. Atender Yadav vs State Govt Of Nct Of Delhi

A father was accused of raping his 11-year-old daughter during November-December 2006. The prosecutrix was supported by her mother and brother, providing corroborating evidence.

¹² *State v. Banks*, 289 P.3d 1185

¹³ *Sejal Sharma vs State Of Haryana 2021* ,Indian Kanoon, <https://indiankanoon.org/doc/110889529/> [accessed May 19 2024 , 04:31 am]

However, the court found inconsistencies between the prosecutor's statements made to the police (under section 161 of the CrPC) and those made before the magistrate (under section 164 of the CrPC). Given the ongoing matrimonial dispute between the parents, the court acknowledged the possibility of manipulation and misguidance, especially considering the child's age. Consequently, the court emphasized the need for additional reliable sources of evidence and carefully scrutinized the case. As the truth unfolded, it became evident that the mother had falsely implicated the husband in a rape case, possibly with the intention of extortion or wrongful conviction.

The court condemned the mother's conduct, highlighting the prevalence of false rape accusations. The judgment in *Radhu vs. State of Madhya Pradesh* further explores these complexities. The esteemed court cited excerpts from the judgment in the case of *Radhu vs. State of Madhya Pradesh*. In this landmark case, the Supreme Court emphasized several key points. Firstly, it acknowledged the rare but existing possibility of coaching a daughter to falsely accuse her own father of rape, whether for extortion or revenge. The Apex Court expressed serious concern over the wrongful manipulation of such a heinous crime. Additionally, it underscored the societal disgrace associated with the belief that women would never falsify rape accusations. The court condemned the shameful act of a mother manipulating her daughter to falsely accuse her husband of rape, either to punish him or for financial gain, without considering the lasting trauma on the daughter. The Supreme Court highlighted the indescribable anguish endured by a man falsely accused of raping his own child. It was deeply disheartened to witness a mother exploiting her daughter for personal vendettas, staining the daughter's life with fabricated allegations. Furthermore, the court clarified that such false cases undermine the credibility of genuine ones.¹⁴

Then there is the distressing story of a man who spent two decades in jail for a crime he didn't commit, "The Man who spent 20 years in jail in a false rape case." Vishnu Tiwari, hailing from Lalitpur, was wrongly imprisoned based on a false rape accusation. In September 2000, Vishnu was arrested following allegations that he had raped a woman, with her husband and father-in-law providing testimony against him. They claimed that Vishnu had assaulted her while she was five months pregnant. However, after 20 years, the Allahabad High Court, recognizing the injustice, acquitted Vishnu Tiwari and ordered his release from prison, acknowledging his innocence.¹⁵

¹⁴ *Atender Yadav vs State Govt Of Nct Of Delhi*, 2013, CRL.A. 1340/2010

¹⁵ Azhar Ahmad Khan, *Case Study on False rape allegation in India*, [Online] <https://theamikusqriae.com/case-study-on-false-rape-allegation-in-india/> [accessed May 18 2024, 09:30 pm]

The 2003 Nisha Sharma dowry case serves as a prominent example illustrating the potential misuse of India's IPC 498A law, which addresses dowry-related offenses. Nisha Sharma accused her prospective groom, Munish Dalal, of demanding dowry, prompting discussions about the fairness and dynamics of such allegations within the legal framework. This case received significant attention from both Indian and international media outlets, portraying Nisha as a symbol of youth empowerment and a role model for women. She even made an appearance on the Oprah Winfrey Show. However, in 2012, the court acquitted all the accused after determining that Nisha had fabricated the dowry charges to avoid marrying her fiancé.^{16 17}

IV. STATISTICAL DATA ON FALSE ACCUSATIONS

The 2022 data on Crimes Against Women shows us the statistics of accusations, mistakes and status of cases under the category in general. This is an extremely important set of data that opens our minds to the actual facts and figures of the crimes, actual, mistakes and false.¹⁸ While researching, to ensure best comprehension of numbers, true and false complaints, of convictions and acquittals by the police and the court, we have considered the Reported Data on Metropolitan Cities, broken it down into Crime heads relevant to our research topic and placed the statistics in two tables titled-

Table 1 - Police Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022

Table 1.1 - Police Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022 (Concluded)

Table 2 - Court Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022

Table 2.2 - Court Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022 (Concluded)

TABLE 1

¹⁶ Aniruddh Ghoshal, *Rebel bride's dowry charge junked*, The Times Of India [Online], [Mar 1, 2012, 03:26 IST] http://timesofindia.indiatimes.com/articleshow/12090709.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cpps [accessed May 20 2024, 03:22 am]

¹⁷ Amrit Dhillon, *India shifts dowry law against 'vindictive wives'*, The Sydney Morning Herald, [Online], [Jul. 4, 2014, 08.47am] <https://www.smh.com.au/world/india-shifts-dowry-law-against-vindictive-wives-20140704-zsvg8.html> [accessed May 18, 2024 , 10: 32 pm]

¹⁸ 2022, NCRB data, *Crimes against Women in India data by NCRB*. s.l.: National Crime Records Bureau, 2022 <https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf> [accessed May 18, 2024 at 10:10 pm]

Police Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities - 2022

Sr. No.	Crime Head	Pending Investigation from Previous Year	Reported during the year	Reopened for Investigation	Total for Investigation (Col.3+ Col.4 +Col.5)	Ended as FR Non Cognizable	Ended as FR False	Ended as Mistake of Fact or of law or Civil Dispute	Insufficient Evidence or Untraced or No Clue	Abandoned in Investigating	Total (Col. 7+Col. 8+Col. 9+Col. 10 +Col. 11)
[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]	[11]	[12]
1	Dowry Deaths	212	381	152	745	0	6	4	9	0	19
2	Abetment to Suicide of Women	622	427	0	1049	0	10	15	24	0	49
3	Cruelty by Husband or his relatives	13739	15877	281	29897	0	205	1156	657	2	2020
4	Kidnapping and Abduction of Women	10938	9473	1246	21657	0	807	4914	966	2	6689
5	Rape	1172	3633	59	4864	0	281	78	82	3	444
6	Attempt to	35	39	0	74	0	7	3	1	0	11

	Commit Rape										
7	Assault on Women with Intent to Outrage her Modesty	5590	8731	59	14380	19	332	211	367	8	937
8	Insult to the Modesty of Women	1881	1718	0	3599	1	14	50	91	0	156
	Total IPC Crimes against Women (Sr. No. 1 to 8)	34189	40279	1797	76265	20	1662	6431	2197	15	10325
9	Dowry Prohibition Act	395	1221	563	2179	0	59	25	2	0	86
10	Immoral Traffic (Prevention) Act	743	303	0	1046	0	0	0	68	0	68
11	Protection of Women from Domestic Violence Act	24	25	0	49	0	3	0	0	0	3
12	Cyber Crimes/Information Technology Act	470	340	0	810	0	0	2	77	0	79
13	Protection of	3900	6421	135	10456	2	71	50	136	6	265

	Children from Sexual Offences Act											
14	Indecent Representation of Women (Prohibition) Act	4	0	0	4	0	0	1	1	0	2	
	Total SLL Crimes against Women (Sr. No. 9 to 14)	5536	8310	698	14544	2	133	78	284	6	503	
	Total Crime under specific acts & sections against Women	39725	48589	2495	90809	22	1795	6509	2481	21	10828	

TABLE 1.1

Police Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022 (Concluded)

Sr. No.	Crime Head	Charge Sheeted Out of cases From Prev. Year	Charge sheeted Out of Cases during the year	Cases Charge sheeted (Col.16+ Col.17)	Cases Quashed at Investigation Stage	Cases Stayed at Investigation Stage
[1]	[2]	[13]	[14]	[15]	[16]	[17]

1	Dowry Deaths	250	254	504	0	0
2	Abetment to Suicide of Women	116	230	346	2	2
3	Cruelty by Husband or his relatives	5423	6948	12371	295	17
4	Kidnapping and Abduction of Women	704	867	1571	3	0
5	Rape	717	2374	3091	10	9
6	Attempt to Commit Rape	4	16	20	0	0
7	Assault on Women with Intent to Outrage her Modesty	2439	4813	7252	11	16
8	Insult to the Modesty of Women	430	826	1256	0	3
	Total IPC Crimes against Women (Sr. No. 1 to 8)	10083	16328	26411	321	47
9	Dowry Prohibition Act	669	678	1347	5	13
10	Immoral Traffic (Prevention) Act	114	180	294	0	1
11	Protection of Women from Domestic Violence Act	6	14	20	0	0

12	Cyber Crimes/Information Technology Act	36	68	104	2	0
13	Protection of Children from Sexual Offences Act	1199	4597	5796	7	1
14	Indecent Representation of Women (Prohibition) Act	0	0	0	0	0
	Total SLL Crimes against Women (Sr. No. 9 to 14)	2024	5537	7561	14	15
	Total Crime under specific acts & sections against Women	12107	21865	33972	335	62

TABLE 2

Court Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022

Sr. No.	Crime Head	Pending Trial from Previous Year	Sent for Trial during the year	Total Cases for Trial (Col.3+ Col.4)	Abated by Court	Withdrawn from Prosecution	Compounded or Compromised	Disposed off by Plea Bargaining	Quashed
[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]

1	Dowry Deaths	3849	504	4353	2	0	0	0	0
2	Abetment to Suicide of Women	2019	346	2365	2	0	3	0	2
3	Cruelty by Husband or his relatives	80915	12371	93286	28	0	750	24	768
4	Kidnapping and Abduction of Women	16543	1571	18114	3	5	66	0	1
5	Rape	21546	3091	24637	11	0	16	0	23
6	Attempt to Commit Rape	433	20	453	0	0	0	0	0
7	Assault on Women with Intent to Outrage her Modesty	59915	7252	67167	30	1	556	2	78
8	Insult to the Modesty of Women	13163	1256	14419	13	0	193	0	6
	Total IPC Crimes against Women (Sr. No.1 to 8)	198383	26411	224794	89	6	1584	26	878
9	Dowry Prohibition Act	5176	1347	6523	2	1	77	0	58
10	Immoral Traffic (Prevention) Act	3478	294	3772	2	2	0	0	1

1 1	Protection of Women from Domestic Violence Act	65	20	85	0	0	0	0	1
1 2	Cyber Crimes/Information Technology Act	272	104	376	1	0	5	0	0
1 3	Protection of Children from Sexual Offences Act	30148	5796	35944	37	0	27	0	14
1 4	Indecent Representation of Women (Prohibition) Act	213	0	213	0	0	0	0	0
	Total SLL Crimes against Women (Sr. No.9 to 14)	39352	7561	46913	42	3	109	0	74
	Total Crime under specific acts & sections against Women	237735	33972	271707	131	9	1693	26	952

TABLE 2.2

Court Disposal of Crime against Women (for specific IPC Crimes and Crimes under Special and Local Laws) in Indian Metropolitan Cities – 2022 (Concluded)

Sr.	Crime Head	Disposed off without trial	Convicted Out	Convicted Out of	Cases Convic	Cases Discha	Cases Acqu
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No.		(Col.6 + Col.7+ Col.8 + Col.9 + Col.10)	of Cases from Previous Year	Cases during the Year	Total (Col.13 + Col.14)	Registered	Total
[1]	[2]	[11]	[13]	[14]	[15]	[16]	[17]
1	Dowry Deaths	2	60	0	60	3	101
2	Abetment to Suicide of Women	7	7	0	7	2	44
3	Cruelty by Husband or his relatives	1570	510	121	631	262	1598
4	Kidnapping and Abduction of Women	75	185	11	196	42	279
5	Rape	50	190	9	199	39	872
6	Attempt to Commit Rape	0	2	0	2	2	7
7	Assault on Women with Intent to Outrage her Modesty	667	396	18	414	77	1369
8	Insult to the Modesty of Women	212	42	5	47	21	192
	Total IPC Crimes against Women (Sr. No.1 to 8)	2583	1392	164	1556	448	4462
9	Dowry Prohibition	138	5	0	5	1	545

	Act						
10	Immoral Traffic (Prevention) Act	5	91	11	102	1	92
11	Protection of Women from Domestic Violence Act	1	1	0	1	0	4
12	Cyber Crimes/Information Technology Act	6	1	0	1	0	5
13	Protection of Children from Sexual Offences Act	78	653	21	674	57	1564
14	Indecent Representation of Women (Prohibition) Act	0	0	0	0	0	1
	Total SLL Crimes against Women (Sr. No.9 to 14)	228	751	32	783	59	2211
	Total Crime under specific acts & sections against Women	2811	2143	196	2339	507	6673

V. IMPACT ON MEN

While there are numerous laws in place to protect women against crimes, there is a noticeable absence of specific laws safeguarding husbands and their families from crimes committed by women (wives). This disparity is concerning and merits attention. Unfortunately, many crimes against men go unreported due to societal biases and stereotypes. Men often suffer silently,

fearing social stigma or repercussions.

The pressure to fulfill the role of protector and provider can be overwhelming. Men fear false dowry harassment or domestic violence cases. These cases not only affect the accused man but also impact his family members. The social stigma associated with such accusations can be difficult to overcome, even if the cases are eventually decided in favour of men. When innocent individuals fear punishment under the provisions of a law, it seems like a form of state-sponsored terrorism. Laws should protect real victims without instilling fear in those who have committed no crime. While genuine victims deserve protection, laws should not intimidate innocent people. It is essential for both the spouses to be aware of these rights to ensure a fair and just marriage. Additionally, the Indian Constitution guarantees equality and prohibits discrimination based on gender, emphasizing the need for protection and welfare of both partners in a marriage. While addressing this issue, a balanced approach that protects all parties involved is needed.¹⁹

Amit Gupta from Hridaya, a men's rights organization, has labelled the treatment of men under section 498-A as a form of "legal terrorism," perpetrated through laws seen as biased against men and families. He argues that section 498-A is increasingly misused, resulting in what he terms "legal terrorism" against men. Even after individuals falsely accused are acquitted, they often face ongoing negative consequences. Proving innocence in court is tough, and despite exoneration, society may still regard them with suspicion and stigma. The challenges they face, including potential imprisonment for crimes they didn't commit, have significant mental health impacts and hinder their reintegration into society.²⁰

(A) Psychological and emotional consequences

Wrongful allegations can have severe repercussions for the accused, causing harm to their reputation, emotional distress, and social exclusion. One of the primary sources of fear for these individuals is the potential tarnishing of their reputation, leading to societal ostracization. The stigma associated with allegations of crimes against women is perceived to be severe due to societal perceptions. The risk of losing reputation among business partners, associates, and customers due to negative media coverage is also concerning. Additionally, the mental anguish resulting from default sympathetic behaviour towards females and the pervasive perception of males as culprits exacerbates their distress. This bias in favor of wives within the judiciary can

¹⁹ *Domestic violence act of India is Against Men !!*, 498a [Online] <https://www.498a.org/domesticViolence.html> [accessed May 19, 2024, 02:34 am]

²⁰ Tarique Anwar, "Flipside of dowry law: Men recall how Section 498(A) is unfairly used against them" [Online] [March 25, 2015, 04:29 IST] <https://www.firstpost.com/india/flipside-of-dowry-law-men-recall-how-section-498a-is-unfairly-used-against-them-2172943.html> [accessed May 19, 2024 at 01:12 am]

hinder their ability to obtain anticipatory bail, potentially resulting in prolonged incarceration. Furthermore, these individuals often fear the litigation process itself. As proceedings unfold, they grapple with the complexities of the legal system, unexpected expenses, and strained relationships with potential sources of support. Many experience a decline in job performance due to the stress, leading to job loss and deteriorating mental health. This may drive them towards substance abuse as a coping mechanism. Witnessing societal condemnation, they withdraw from social interactions, experiencing profound loneliness and despair. Some may even resort to paying large sums of money to end their marriages, hoping to alleviate the ongoing trauma of the legal process. These challenges extend beyond the accused individuals, affecting the well-being of their families, and sometimes resulting in irreversible tragedies such as suicide.

(B) Consequences of false allegations and convictions

Psychological Toll : Falsely accused of rape, individuals endure profound psychological trauma, disrupting their lives and recovery. This ordeal breeds feelings of isolation and self-loathing, affecting not only the accused but also their spouse, family, and close ones.

Suicidal Acts : Some resort to suicide or self-harm, unable to withstand societal pressure and fearing prolonged incarceration. They believe ending their lives may spare their families further anguish.

Post-Traumatic Stress Disorder (PTSD) : False accusations trigger PTSD, manifesting in reliving trauma, avoiding triggers, intrusive thoughts, and emotional numbness. This condition severely impacts mental, physical, and social health, leading to depression, substance abuse, and suicidal tendencies.

Regarding suicide figures, the country reported 1,70,924 suicides in 2022, up 4.2% from 2021, with a 3.3% rise in the suicide rate.²¹

(C) Causes of suicides amongst men

The National Crime Records Bureau (NCRB) publishes one of its oldest and most esteemed reports, compiled annually from data gathered by State Crime Records Bureau (SCRbX) and District Crime Records Bureau (DCRbX). This information is submitted to the NCRB at the end of each calendar year. Additionally, data from mega-cities (those with populations of 10 lakh or more, according to the latest census) is collected separately. District-wise data for certain

²¹ 2022, NCRB data, *Accidental Deaths and Suicides in India data by NCRB*. s.l.: National Crime Records Bureau, 2022 <https://ncrb.gov.in/accidental-deaths-suicides-in-india-ads.html> [accessed May 18, 2024 at 10:45 pm]

IPC categories is also gathered and published independently. The inaugural edition of 'Crime in India' was released in 1953, with the latest edition covering the year 2022.²²

Suicides and their causes as well as the classification of data based on gender, age, marital status available in “Crime In India”. Statistically speaking, in 2022 it was seen that the number of Adult Males committing suicide was higher than females. The highest number being married , adult males.

‘Family Problems’ and ‘Illness’ were the major causes of suicides which accounted for 31.7% and 18.4% of total suicides respectively during 2022. ‘Drug Abuse/ Alcoholic Addiction’ (6.8%), ‘Marriage Related Issues’ (4.8%), ‘Love Affairs’ (4.5%), ‘Bankruptcy or Indebtedness’ (4.1%), ‘Unemployment’ (1.9%) ,‘Failure in Examination’ (1.2%), ‘Professional/Career Problem’ (1.2%), ‘Death of Dear Person’ (1.2%) and ‘Property Dispute’ (1.1%) were other causes of suicides.

(D) Visual representation of the reported data on suicides

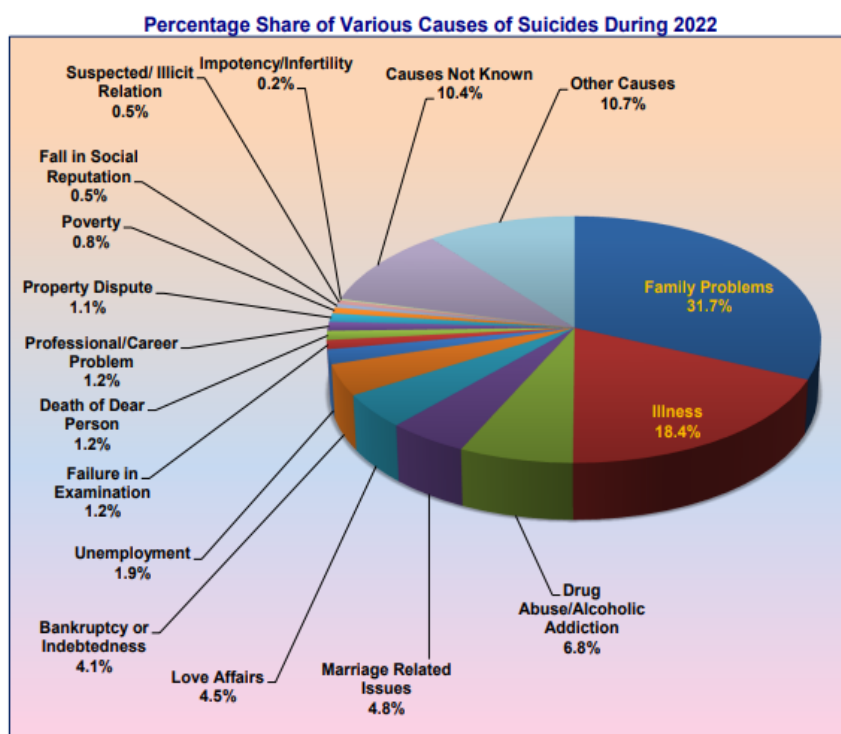


Figure 1

²² Crime in India 2022 Statistics Volume-I, <https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf> [accessed May 18, 2024, 03:40 am]

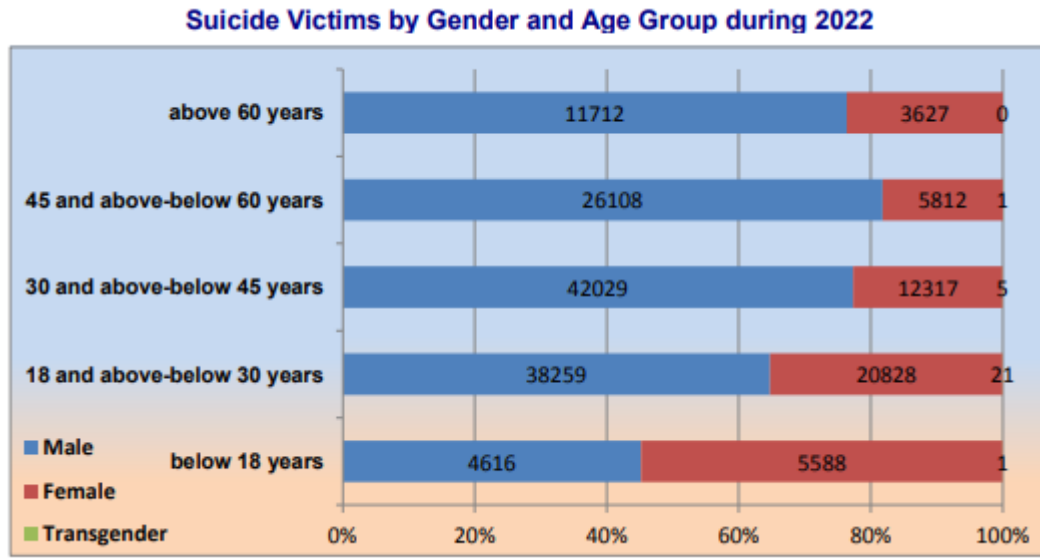


Figure 2

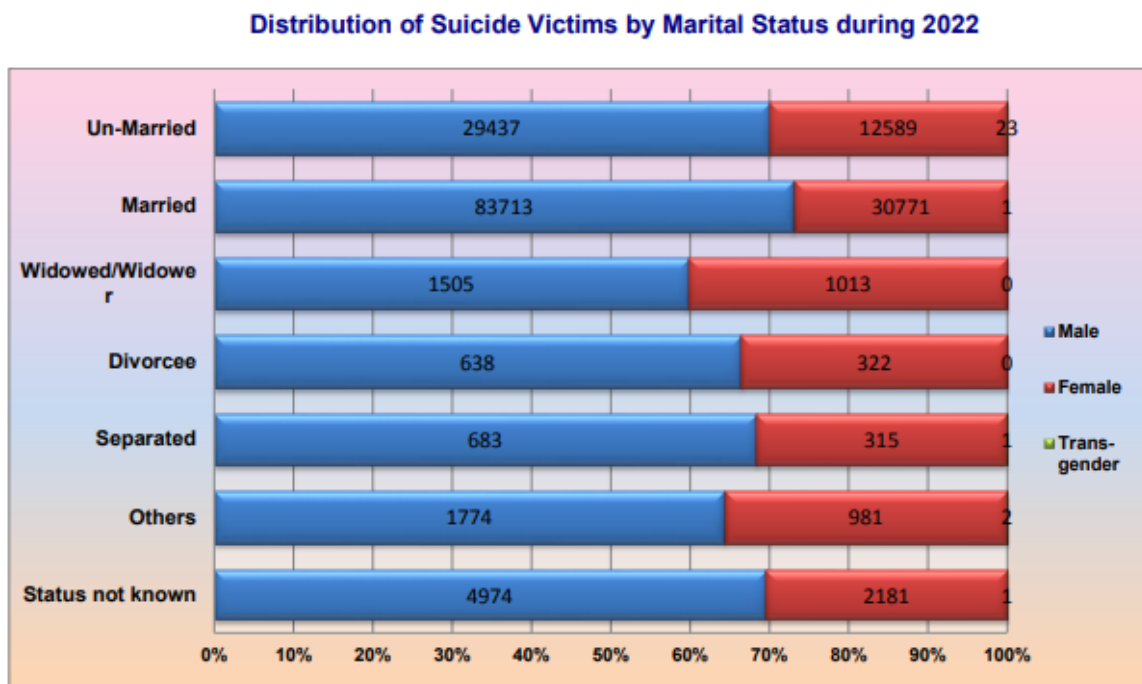


Figure 3

(E) Legal and financial repercussions

These accounts highlight extortions from family members, blackmail, and baseless accusations by women. What began as a form of protection has morphed into a potent legal tool wielded by women to settle personal vendettas against husbands and their families. Women indeed require special protection due to entrenched patriarchal norms that have historically deprived them of rightful status in society. Hence, certain provisions in Part III of the Constitution, known as the Fundamental Rights, aim to safeguard women's interests. However, this doesn't imply ignoring

or side-lining the rights of male members. Often, when complaints are filed against husbands and family members, they face swift arrest and bail denial due to the gravity of the offense.

Furthermore, they are barred from reaching any compromise with the wife to withdraw the case. In some cases, men opt to make compromises, agreeing to pay substantial sums to rid themselves of their wives and alleviate the ongoing trauma of the legal process. However, this leads to financial losses due to unfavourable judgments and concerns about the well-being of their parents and overall peace of mind for both the accused men and their families. Tragically, in extreme cases, the husband's family has to witness irreversible losses, such as the suicide of individuals booked under Section 498a, with some families even witnessing multiple suicides.

(F) Stigma and societal attitudes towards male victims

The ingrained perceptions of men and masculinity require a shift. Men should feel encouraged to discuss their challenges openly, and society must recognize and address these issues. Biased media coverage and societal judgments, often preceding thorough investigations by law enforcement, unfairly vilify victims, particularly males accused by females and their families. The concept of the "Right to be Forgotten" , the forgotten fundamental right truly needs to be exercised for all complainants and accused for maintaining the dignity of both sides till the end of the court proceedings.²³

The issue of crime and abuse against men requires urgent attention and calls for earnest consideration. It is high time that we raise awareness about this issue if we genuinely seek to achieve gender equality. The recorded statistics on crimes against men are troubling, not only because of their sheer volume, but also due to the substantial number of unreported cases where men are victimized. In India, men face a range of abuses, and the cultural expectation that "men don't cry" perpetuates a harmful mindset that must be overcome.

VI. LEGAL FRAMEWORKS: IPC & BNS

Let us look at the provisions of safeguarding male victims against the misuses under Indian Penal Code, 1860 and Bhartiya Nyaya Sanhita, 2023.

In recent years, the misuse of laws designed to protect women has come under scrutiny. While these laws are essential for safeguarding women's rights, there have been instances where they have been misused, leading to false allegations and wrongful prosecutions of men. The Indian Penal Code (IPC) and other legal frameworks have started addressing these concerns,

²³ Mr. Abhimanyu Singh¹ (Author.) & Dr. Raj Rani² (Co-Author) , IJCRT, Volume 12, Issue 2 February 2024 , ISSN: 2320-2882 , *A Data Analysis Of Public Perspectives: On Trend Of False Accusation In Rape Cases* , pp. E300 , <https://www.ijcrt.org/papers/IJCRT2402501.pdf> , [accessed May 18 ,2024 , 11:45 pm]

introducing provisions and guidelines to protect men against such misuse.

(A) Provisions Under Indian Penal Code (IPC)

Section 498A IPC:

Objective: Initially enacted to protect women from cruelty by their husbands or relatives.

Misuse Addressed: The Supreme Court has issued guidelines to prevent the misuse of this section. In *Rajesh Sharma & Ors vs. State of U.P. (2017)*²⁴ The Court mandated the formation of Family Welfare Committees to scrutinise complaints before any arrests are made. This aims to differentiate between genuine and fraudulent cases.

Supreme Court Guidelines:

No arrest should be made without the committee's report.

The committee's role is to distinguish between genuine and fraudulent complaints.

Provision for accused individuals outside the jurisdiction to participate in court proceedings via video conference to avoid unnecessary travel and harassment.

Section 354A IPC:

Objective: Section 354A of the Indian Penal Code stipulates that a male may face imprisonment or a fine if he participates in unwanted²⁵ and explicit sexual behaviour, demands sexual favours, shows pornography against a woman's will, or makes sexually suggestive statements.

Section 211 IPC:

Objective: Section 211²⁶ provides for the punishment of individuals who institute false criminal proceedings or falsely charge others with offences.

Protection Against False Accusations: Men falsely accused under women-centric laws can seek recourse under this section to penalise the complainant for instituting false charges.

Section 182 IPC:

Objective: Penalises individuals who knowingly provide false information to public servants.

Application: Men falsely accused under provisions like Section 498A²⁷ can file a case under

²⁴ *Rajesh Sharma & Ors vs. State of U.P. (2017)* AIR 2017 SC 3869

²⁵ LawRato. (n.d.). *IPC 354A in simple words*. Retrieved from <https://lawrato.com/indian-kanon/ipc/section-354a#:~:text=or%20with%20both,-IPC%20354A%20in%20Simple%20Words,punished%20with%20imprisonment%20or%20fine> [accessed May 16, 2024, 2:24 pm]

²⁶ Indian Penal Code, 1860; Sec.211

²⁷ Indian Penal Code, 1860; Sec. 498A

this section against those who provided false information leading to their wrongful prosecution.

(B) Provisions Under Bhartiya Nyaya Sanhita (BNS)

Section 86 BNS:

Objective: Section 86²⁸ addresses provisions related to dowry and cruelty.

Balanced Approach: The section aims to ensure that while protecting women, it also prevents the misuse of dowry laws against men and their families. Guidelines similar to those in the IPC are incorporated to safeguard against false allegations.

Gender-Neutral Provisions:

Objective: Recognize and protect men from domestic violence and abuse.

Application: Ensures that laws against domestic violence are not exclusively for women but also provide protection for men who are victims of such violence.

Section 74 BNS:

Anyone who assaults or uses criminal force against a woman with the intent to offend or knowing that he will likely offend her modesty will be punished with either type of imprisonment for a term that cannot be shorter than one year²⁹ and cannot exceed five years, in addition to a fine.

(C) Judicial Interventions

Arnesh Kumar v. State of Bihar & Anr (2014):

Context: The Supreme Court granted interim release to the appellant with specific conditions, acknowledging the misuse of Section 498A.

Guidelines Issued:

Mandatory police directives to avoid unwarranted arrests.

Emphasis on the need for proper investigation before making arrests.

Rajesh Sharma & Ors vs. State of U.P. (2017):

Context: Formation of Family Welfare Committees to review complaints under Section 498A.

Purpose: To prevent misuse and wrongful arrests, ensuring genuine complaints are addressed while protecting the innocent.

²⁸ Bhartiya Nyaya Sanhita, 2023; Sec.86

²⁹ S. Rao (n.d.). *Section 74 BNS: Section 74 of Bharatiya Nyaya Sanhita (BNS)*. Retrieved from <https://sudhirrao.com/section-74-bns-section-74-of-bharatiya-nyaya-sanhita-bns/> [accessed May 16, 2024, 2:45 pm]

The Indian legal system, while originally designed to protect women, has recognized the potential for misuse and has taken steps to safeguard men against false accusations. The IPC and BNS, along with judicial guidelines and interventions, provide a framework that aims to balance the protection of women's rights with the need to prevent wrongful prosecution of men. Continued advocacy and legal reforms are essential to ensure that the justice system remains fair and equitable for all individuals, regardless of gender.

VII. PROVISIONS AND SAFEGUARDS FOR VICTIMS OF MISUSE OF RIGHTS PROVIDED TO WOMEN

In recent years, the discourse surrounding gender-based laws in India has seen a paradigm shift. While the legislative framework has long been focused on safeguarding women's rights, there has been growing concern about the misuse of these laws to the detriment of men. This paper critically examines the provisions and safeguards available for men who are victimised by the misuse of women-centric laws, highlighting recent judicial interventions and the need for a balanced legal approach.

“Being born a guy in India feels like a crime, and anti-men policies that masquerade as pro-women's rights make marrying an Indian woman seem even worse.”

While India is frequently criticised for its poor treatment of women, there is little attention given to the harassment men face from women³⁰. Recently, men's rights activists achieved a significant victory when the Supreme Court of India recognized men as victims in cases of domestic violence, sexual harassment, and dowry-related issues."

(A) Background

India's legal system has enacted various laws to protect women from domestic violence, sexual harassment, and dowry-related issues. Prominent among these are the Protection of Women from Domestic Violence Act (PWDVA) 2005, Section 498A of the Indian Penal Code (IPC) concerning cruelty by husband or relatives, and the Dowry Prohibition Act 1961. Section 86³¹ BNS now deals with provisions of Dowry and Cruelty. While these laws are crucial for protecting women, there have been increasing instances of their misuse, leading to false allegations against men.

(B) Judicial recognition of the misuse of provisions of dowry against men

³⁰ Riyable. (2020, October 23). **The gender advantage: Women who misuse it, men who bear it**. Times of India, Retrieved from, <https://timesofindia.indiatimes.com/readersblog/riyable/the-gender-advantage-women-who-misuse-it-men-who-bears-it-5475/> [accessed May 17, 2024, 3:00 pm]

³¹ Bhartiya Nyaya Sanhita, 2023 Sec. 86

The Supreme Court of India has acknowledged the potential for misuse of these laws. In several landmark judgments, the Court has highlighted the need to protect innocent men from false accusations. For instance, in *Rajesh Sharma & Ors vs State of U.P. & Anr* (2017)³² The Supreme Court issued guidelines to prevent the misuse of Section 498A IPC, including the establishment of Family Welfare Committees to scrutinise complaints before any arrest is made. This ruling underscored the necessity of balancing the protection of women with safeguards against wrongful prosecution of men.

The guidelines³³ provided were:

- a. Court has constituted a committee and every case related to dowry will go to this committee which gives this committee unchecked power and it can work as a justice dispensation system.
- b. No arrest will be done until the committee gives its report to the magistrate that shows the justice to the victim will be delayed.
- c. Committee members who act as a judicial body can be influenced and bribed by the accused.
- d. The judge's discretion is based on nothing but his/her background and the judgement reflects that background.
- e. The precedents judges use also reflect their male-dominant view as most of the cases they used is to support their reasoning that 498A is being misused.

(C) Are there no laws that protect men from sexual harassment in India?

While it is true that India lacks specific laws to protect men against sexual harassment, not all sexual harassment laws in the country are exclusively³⁴ aimed at women :

Section 377 of the IPC: This section criminalizes non-consensual sodomy and recognizes men as victims of rape, although it does not apply when the perpetrator is a woman. But as per BNS section 377 made any sexual offences against men, transgenders non punishable by law.

Protection of Children from Sexual Offences Act, 2012: This law criminalizes sexual harassment of anyone under 18 and is gender-neutral concerning both the perpetrator and the

³² *Rajesh Sharma & ors v. State of U.P.* AIR 2017 SC 3869

³³ [_iPleaders](https://blog.ipleaders.in/rajesh-sharma-v-state-of-up-case-analysis/#:~:text=The%20Supreme%20Court%20judgment%20of,NGOs%20and%20women%20social%20activists). (2021, August 14). **Rajesh Sharma v. State of UP case analysis**. Retrieved from, <https://blog.ipleaders.in/rajesh-sharma-v-state-of-up-case-analysis/#:~:text=The%20Supreme%20Court%20judgment%20of,NGOs%20and%20women%20social%20activists> [accessed May 17, 2024, 10:00 am]

³⁴ eLearnPOSH. (n.d.). **Major laws against harassment of men in India**. Retrieved from <https://elearnposh.com/major-laws-against-harassment-of-men-in-india/> [accessed May 18, 2024, 12:00pm]

victim.

Criminal (Amendment) Act, 2013 (Nirbhaya Act): This act adopts a gender-neutral stance on crimes like acid attacks and attempted acid attacks, allowing anyone, regardless of gender, to file a complaint.

University Grants Commission Regulations, 2015: These regulations, aimed at preventing and addressing sexual harassment in higher educational institutions, are also gender-neutral, applying to all colleges, universities, and deemed universities.

(D) Provisions for safeguarding men against domestic violence

In a traditionally male-dominated country like India, acknowledging that men can be victims of domestic violence is difficult for many. This scepticism may explain why Indian law does not recognize domestic violence against men. Contrary to popular belief, the number of men suffering psychological and physical abuse by women is on the rise.

Under current Indian laws, there are no provisions to protect men from intimate partner violence. The Indian Penal Code of 1860³⁵, Section 498A³⁶, holds only men accountable for violence against their wives, with no clauses that hold women accountable for similar actions. Likewise, the Protection of Women from Domestic Violence Act of 2005 only offers protection to women, with no equivalent safeguards for men. This legal framework implies that men are always the aggressors, while women are invariably the victims.

Several other factors contribute to the underreporting of such cases. Societal stereotypes that depict men as strong and unemotional, the potential stigma and discomfort associated with seeking legal help, and the impact on their families all play a role. A survey of 1,000 married men aged 21 to 49 in rural Haryana revealed that one in ten men aged 18 and above has experienced domestic violence. This research indicates that men, too, are victims of domestic violence, not just women.

(E) Role of men's rights activists

Men's rights activists have played a crucial role in bringing attention to the misuse of women-centric laws. Organisations like the Save Indian Family Foundation (SIFF) have advocated for legal reforms and provided support to men facing false allegations. Their efforts have been instrumental in achieving recent judicial victories and raising public awareness about this issue.

³⁵ My thoughts on paper. (2023, January 14). **An Indian perspective on domestic violence against men**. Times of India. Retrieved from <https://timesofindia.indiatimes.com/readersblog/my-thoughts-on-paper/an-indian-perspective-on-domestic-violence-against-men-50632/> [accessed May 18, 2024, 2:00pm]

³⁶ Indian Penal Code, 1860 Sec. 498A

(F) Judgements in the favour of male victims

In the case of *Rajesh Sharma & Ors v. State of U.P. (2017)*³⁷. The Supreme Court established a "Family Welfare Committee" to handle complaints under Section 498A of the IPC to protect innocent individuals, particularly husbands and their relatives. The committee's role is to differentiate between genuine and fraudulent cases, ensuring no arrests are made until after their assessment. It also supports those falsely accused, and requires accused individuals outside the jurisdiction to participate in court proceedings via video conference. The Court recognized the misuse of Section 498A and aimed to prevent the harassment of husbands and married men while ensuring prosecutions for genuine dowry-related offences. The ultimate goal is to restore the human rights of the innocent and ensure the judicial system punishes the guilty while protecting the innocent.

In another landmark case of *Arnesh Kumar v. the State of Bihar & Anr, 2014*³⁸. The Supreme Court granted the Appellant interim release with specific conditions. The Apex Court noted that Section 498A is a cognizable and non-bailable offence³⁹, often misused by disgruntled wives to harass husbands and their relatives. According to "*Crime in India 2012 Statistics*," 197,762 people were arrested in 2012 for violating Section 498A. While the charge-sheeting rate for these cases is 93.6%, the conviction rate is only 15%, highlighting the misuse of this provision. The Court observed that the easiest way to harass someone is to have the husband and his family arrested under this section. To prevent unwarranted arrests, the Supreme Court issued specific directives for the police to follow before detaining an individual.

The legal framework in India, historically focused on protecting women's rights, has been increasingly scrutinized for its potential misuse against men. The establishment of the Family Welfare Committee in the Rajesh Sharma case and the directives issued in the Arnesh Kumar case mark significant judicial interventions aimed at preventing the wrongful prosecution of men under Section 498A of the IPC. These measures are crucial steps toward achieving a balanced legal approach that protects both genuine victims and those falsely accused.

It is imperative that the judicial system continues to evolve to address these issues, ensuring that the laws serve their intended purpose without being exploited. Acknowledging and addressing the harassment and abuse men can face is essential for creating an equitable legal system. The efforts of men's rights activists, combined with judicial recognition of these

³⁷ Supra note 6

³⁸ *Arnesh Kumar v. the State of Bihar & Anr, 2014 AIR 2014 SC 2756*

³⁹ iPleaders. (2021, July 25). **Top 10 domestic violence cases**. Retrieved from https://blog.iplayers.in/top-10-domestic-violence-cases/#Arnesh_Kumar_v_the_State_of_Bihar_An_r_2014 [accessed May 9, 2024, 3:45 pm]

challenges, are pivotal in driving reforms that protect the rights and dignity of all individuals, regardless of gender. By striving for a more balanced approach, India can work towards a justice system that upholds the principles of fairness and equality for everyone.

VIII. JUDICIAL REVIEW

1. Sushil Kumar Sharma vs. Union Of India And Ors.⁴⁰

Facts of the Case:

A petitioner filed a writ petition under Article 32 of the Indian Constitution, challenging the constitutionality of Section 498A of the Indian Penal Code (IPC), 1860. The petitioner argued that Section 498A, introduced by the Criminal Law Amendment Act of 1983, is unconstitutional and has been misused for making false allegations against husbands and in-laws. The petitioner requested the court to either declare the section unconstitutional or issue guidelines to prevent its misuse.

The petitioner cited a Delhi High Court judgment expressing concern over the rise in false allegations. Sections 498A, 113B, 304B, and 306 of the IPC were reviewed, noting their focus on addressing cruelty, dowry deaths, and abetment of suicide. The court noted that while the possibility of abuse exists, it does not make the provision unconstitutional. The legislature should address potential misuse, and the court would continue to operate within the existing legal framework.

Issues:

1. Is Section 498A of the IPC, 1860, unconstitutional?
2. Does the mere possibility of abuse make a provision ultra vires and unconstitutional?
3. Why was Section 498A inserted by the Criminal Law Amendment Act, 1983?

Judgment:

The court emphasised that Section 498A aims to prevent offenses related to dowry death, cruelty, and harassment of women by their husbands and in-laws. It is intended to protect women from marital cruelty and harassment.

The court referenced several cases, including *Thangal Kunju Musaliar v. M. Venkatachalam Potti* and *Mafatlal Industries Ltd. v. Union of India*, to support the principle that the possibility of abuse does not invalidate a provision. The court reiterated its role in interpreting, not making,

⁴⁰ *Sushil Kumar Sharma vs. Union Of India and Ors.* Writ petition (civil) 141 of 2005

laws and acknowledged the need for legislative measures to prevent misuse of the law.

The court highlighted that misuse of Section 498A causes undue suffering to the accused and stressed the importance of protecting the innocent while punishing the guilty. It stated that the legal system's goal is to uncover the truth, punish wrongdoers, and safeguard the innocent. The petition was dismissed, with the court stating that Section 498A remains constitutional and valid.

2. Mukesh Bansal V. State Of Up & Anr 2022⁴¹

Facts:

In the current case, a wife filed an FIR against her husband and in-laws, accusing her father-in-law and brother-in-law of seeking sexual favours from her. She also claimed that her husband locked her in the bathroom and took away her mobile phone. Additionally, she alleged that her mother-in-law and sister-in-law pressured her to get an abortion and continuously demanded more dowry, assaulting her in the process. The court found the FIR to be repugnant and upheld the lower court's decision to release the accused, as the victim failed to substantiate her allegations. Subsequently, her in-laws filed revision petitions in the High Court.

Guidelines:

Referring to the Social Action Forum for Manav Adhikar v. Union of India, the Allahabad High Court in *Mukesh Bansal v. State of U.P.* issued guidelines for establishing Family Welfare Committees (FWC) to prevent the exploitation of husbands and their relatives through false accusations:

1. No arrests or police action should occur immediately after an FIR or complaint is lodged. A two-month 'Cooling Period' should follow the filing of the FIR or complaint, during which the matter should be referred to the FWC.
2. Cases without injury under Section 307 or other related IPC offences, punishable by imprisonment of up to 10 years, and those under Section 498A, should be referred to the FWC.
3. Each district should have at least one FWC, the number depending on the district's size and population. Each FWC should have at least three members, with its composition periodically reviewed by the District and Sessions Judge/Principal Judge, Family Court, who will be the chairperson or co-chairperson of the District Legal Service Authority.
4. The FWC should include the following members:

⁴¹ *Mukesh Bansal v. State of UP & Anr* CRIMINAL REVISION No. - 1126 of 2022

- a. A young mediator from the District Mediation Centre, a young advocate with up to five years of practice, or a fifth-year law student from a government law college, state university, or NLU with a good academic record.
 - b. A recognized social worker from the district with a clean record.
 - c. Retired judicial officers residing in or near the district who are willing to contribute their time.
 - d. Educated wives of senior judicial or administrative officers of the district.
5. FWC members should not be called as witnesses in court.
6. Upon receiving a complaint, the FWC should invite the parties and their four elders for a personal interaction to resolve the issues. The parties are required to appear before the committee.
7. After proper deliberation, the committee should prepare a detailed report and submit it to the respective Magistrate at the end of the two months.
8. During the deliberation period, police officers should not arrest the accused or take coercive action against them. However, the investigating officer may continue peripheral investigations, such as preparing medical and injury reports and gathering witness statements.
9. The report submitted by the committee should be considered by the investigating officer or the Magistrate on its own merits. Appropriate actions should be taken in accordance with the CrPC once the cooling period is over.
10. FWC members should receive training from the Legal Service Aid Committee, not exceeding 26 weeks.
11. As the work benefits the public, FWC members should act on a pro bono basis or receive a basic honorarium as decided by the District and Sessions Judge.
12. The investigation should be conducted by a designated investigation officer with assured integrity, trained for at least one week in handling matrimonial cases with sincerity and transparency.
13. If a settlement is reached, the District and Sessions Judge or another nominated judicial officer has the authority to dispose of the proceedings, including closing the criminal case.

3. Rajesh Sharma V. State Of U.P 2017 ⁴²

⁴² *Rajesh Sharma & Ors v. State of UP* (2017) AIR 2017 SC 3869

Facts:

The complainant, Sneha Sharma, married the appellant, Rajesh Sharma, on November 28, 2012. Although Sneha's father gave dowry to the best of his ability, the appellants were dissatisfied with the amount. Their demand for dowry increased, and when their demands were not met, Rajesh left Sneha at her matrimonial home. She was pregnant and experienced pain that led to the termination of her pregnancy. On these grounds, Sneha summoned Rajesh under Sections 498A and 323 of the IPC.

Rajesh was found guilty under Section 498A by the Sessions Court of Jaunpur, and a summons was issued against him. Sneha filed a revised petition to summon her parents-in-law as well as her husband's brother and sister. The petition was accepted, and a new order from the trial court summoned all the appellants. The appellants approached the High Court against the summoning order. However, the High Court found no grounds for interference and dismissed the petition.

Issues:

The central issue was the tendency to involve all family members in the crime. The petition claimed that Sneha herself left her matrimonial home and that her father-in-law, a retired government employee, and her mother-in-law, a housewife, had no role in demanding dowry. It also stated that her unmarried brother-in-law and sister-in-law, both government employees, had no intention of demanding dowry from Sneha. After the High Court rejected the appeal, the appellants moved to the Supreme Court.

The Supreme Court's judgment in this case involved judges recommending measures to prevent the misuse of Section 498A. The judgment, after its proclamation, faced criticism from various feminist NGOs and female social activists. The issue was whether the accused's family members were being unjustly implicated and how to protect the innocent. No issue arose regarding the appellant's leave grant, but the reasoning behind the verdict appeared flawed to some extent.

Judgement:

The Court issued orders to the Center to help curb the abuse of the law and protect against inappropriate arrests. In making the judgment, the Supreme Court noted comments from previous cases and suggestions by the Law Commission of India. The Court recognized that Section 498A was added to the Indian Penal Code (IPC) to punish husbands or their family members for torturing the wife, especially when such cruelty could lead to the wife's suicide or murder, highlighting a genuine concern. To check the abuse of the law, the Court issued the following orders:

- **Family Welfare Committee-**

- At least one advisory committee should be established by the District Legal Services Authorities in each district, ideally including three individuals who are paralegal volunteers, social activists, retired people, spouses of working officials, or other suitable and willing residents.

- The constitution and work of these committees should be reviewed periodically, at least once a year, by the District and Sessions Judge of the district, who is also the Chairman of the District Legal Services Authority.

- Committee members will not be called as witnesses.

- Each complaint under Section 498A received by the police or the Magistrate should be assigned to and reviewed by such a committee.

- The committee should submit a report and assessment to the Authority that referred the complaint within one month from the date of receipt. No arrest should be made before this.

- The report should be considered by the Investigating Officer or the Magistrate.

- **Investigating Officer-**

Complaints under Section 498A and related offenses should be investigated only by a designated Investigating Officer of the area, who should be trained for a period (at least a week) deemed suitable.

- **Bail-**

If a bail application is filed with at least one day's notice to the Public Prosecutor/complainant, it should be decided on the same day.

- **NRI-**

For people living outside India, seizing of passports or issuance of Red Corner Notices should not be a routine procedure.

- **Video Conferencing-**

The personal presence of all family members, especially those residing outstation, may not be required. The trial court should grant exemptions from personal appearance or allow appearance by video conferencing without adversely affecting the trial's progress.

The Court noted that it is unfortunate that a significant number of cases continue to be filed under Section 498A, accusing husbands and their families of torturing married women, often

on trivial issues and frequently being false. The Court emphasised that societal participation in justice administration, along with improved investigating officers and trial courts, could help remedy this situation.

IX. CONCLUSION

The examination of legal enactments concerning the protection of Indian women, such as Section 498A of the Indian Penal Code (IPC), juxtaposed with provisions for men and the judiciary's role in safeguarding against misuse, presents a multifaceted landscape of gender dynamics and legal intricacies.

While laws like Section 498A aim to shield women from domestic violence and dowry harassment, the judiciary, through cases like **Rajesh Sharma v. State of U.P.** and **Mukesh Bansal v. State of U.P.**, has emphasized the need to prevent their misuse. Judicial review has led to the establishment of mechanisms like Family Welfare Committees (FWCs) to scrutinize complaints before arrests, thereby striving to maintain a delicate balance between protecting women's rights and preventing false accusations.

Moreover, the interface between the Indian Penal Code (IPC) and the judiciary's directives, as seen in judgments like **Rajesh Sharma v. State of U.P.**, demonstrates a nuanced approach to addressing the complexities of gender-based violence and legal proceedings. By issuing guidelines for fair investigation and bail procedures, the judiciary strives to uphold the principles of justice and equality, irrespective of gender.

The judiciary has affirmed the constitutionality of Section 498A while acknowledging the potential for abuse and advocating for legislative measures to prevent such misuse. Recommendations, such as establishing Family Welfare Committees (FWCs) to review complaints before arrests are made, aim to protect both the rights of women and the accused, ensuring fairness and justice in matrimonial disputes.

Through these cases, the courts have emphasised the importance of striking a balance between safeguarding women's rights and preventing the wrongful implications of innocent individuals. By implementing guidelines and procedures to curb misuse, the judiciary seeks to uphold the principles of equality, fairness, and justice for all parties involved in disputes, marital and otherwise, in India.

In conclusion, the evolving legal framework reflects a concerted effort to protect the rights and well-being of both men and women within the Indian legal system. Through judicial review and proactive measures, there's a continuous endeavour to ensure fairness, prevent misuse, and

promote gender equality in matters of law and justice.

(A) Suggestions

1. Establish Gender-Neutral Laws

Objective: Create laws that provide equal protection to all genders against domestic violence and sexual harassment.

Action: Amend existing laws such as the Protection of Women from Domestic Violence Act (PWDVA) and Section 498A of the IPC to be gender-neutral. Introduce new legislation that explicitly includes protection for men, women, and non-binary individuals.

2. Strengthen the Role of Family Welfare Committees

Objective: Ensure Family Welfare Committees are effective in preventing the misuse of laws.

Action: Standardize the formation and functioning of these committees across all states. Include legal professionals and impartial experts in the committees to ensure fair assessments. Provide regular training to committee members on handling domestic violence and false accusation cases.

3. Implement Stricter Penalties for False Allegations

Objective: Deter individuals from making false accusations.

Action: Amend the IPC to increase penalties for those found guilty of filing false complaints under Section 498A or any other protective laws. Ensure swift legal action against individuals proven to have made false allegations.

4. Promote Legal Awareness and Education

Objective: Educate the public about the rights and protections available to all genders under the law.

Action: Conduct awareness campaigns to inform people about the legal consequences of false accusations. Include information about gender-neutral laws and protections in educational curricula. Partner with NGOs and legal aid organizations to disseminate information widely.

5. Enhance Support Systems for Men

Objective: Provide necessary support and resources for men who are victims of domestic violence or false accusations.

Action: Establish helplines and support centres specifically for men facing domestic abuse or legal harassment. Provide counselling services and legal aid to men who are falsely accused.

Encourage the creation of support groups and networks for male victims of domestic violence.

6. Encourage Fair and Balanced Media Reporting

Objective: Ensure media reports cases of domestic violence and legal misuse fairly and without gender bias.

Action: Develop guidelines for the media to follow when reporting on domestic violence and related legal issues. Promote balanced storytelling that includes perspectives of both men and women. Highlight case studies and stories where men have been victims to raise awareness.

7. Regular Review and Monitoring of Legal Provisions

Objective: Continuously evaluate and improve the legal framework to prevent misuse and protect all individuals.

Action: Set up a task force to review the effectiveness of current laws and suggest necessary amendments. Collect and analyze data on the misuse of protective laws and their impact on men. Regularly update legal provisions to reflect changing societal dynamics and ensure justice for all.

8. Judicial Training and Sensitization

Objective: Ensure that judicial officers are aware of the nuances and potential misuse of gender-specific laws.

Action: Conduct regular training sessions for judges and magistrates on handling cases of false accusations and domestic violence against men. Sensitize judicial officers to the experiences and challenges faced by male victims.

By implementing these suggestions, India can work towards a more balanced and fair legal system that protects the rights of all individuals, regardless of gender, and ensures that justice is served equitably.

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