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# Misuse of Matrimonial Laws: An Analytical View

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## ABSTRACT

*This article critically discusses the misuse of matrimonial laws in India, mostly by wives, and highlights how these laws although important to regulate marital relations as well as safeguard and vindicate the rights of spouses, are often grossly put to harm a spouse or gain undue advantage through the matrimonial court. The essay presents a complex analysis of the Hindu Marriage Act, the Protection of Women from Domestic Violence Act, and Section 498A of the Indian Penal Code which aimed to protect the interest of the innocent spouse and criminalise cruelty or domestic violence, is being exploited to harass the spouse by false accusations and prolonged litigations. The essay discusses the emerging judicial measures to balance the abuse of the above-mentioned acts by presenting more legal and extrajudicial reforms focusing on the problem of matrimonial misuse and explains how severe consequences such as divorce or prosecution impact the marital life, the disharmony thereof partly due to the aforesaid reasons. This essay presents a few exemplary case laws with reference to substantive and procedural reforms in matrimonial laws, elaborates the existing legal lacunae and procedural errors, and suggests preemptive measures and strict judicial supervision to control this expanding load on the family courts.*

**Keywords:** *Matrimonial Laws, Legal Misuse, Section 498A, Domestic Violence, Marital Rape, Alimony, Maintenance, Child Custody, Gender Bias.*

## I. INTRODUCTION

Matrimonial laws in India are meant to deal with the legal issues arising out of marriage and its dissolution. These laws cover a large range of issues such as registration of marriage, maintenance, divorce, custody of children, alimony and so forth. The major Acts regarding matrimonial issues are the Hindu Marriage Act, 1955, the Indian Divorce Act, 1869 (for Christians), the Special Marriage Act, 1954 and the Muslim Personal Law (Shariat) Application Act, 1937.

Matrimonial laws are important because they define the rights and obligations of the spouses within the marital relationship and aim to secure fairness and justice between them. They also

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serve a social purpose by setting the rules for the legally recognized form of the matrimonial bond and the grounds for its dissolution, reflecting the social, cultural and religious values of the community.

However, like with any legal system, matrimonial laws are equally prone to misuse. Both the perpetrators and the victims can use the system to their advantage to gain leverage, thereby subverting the process of justice, creating injustice, intensifying their pain, and undermining the reliability and credibility of the judicial system for many. This type of misuse can affect not only the parties of such litigation but also those who have to actively participate in the process of dispensing justice at various stages.

### **(A) Definition and Scope of "Misuse"**

The term 'misuse' in the context of matrimonial laws is used to refer to the wrong use of these laws – the legal provisions are put to use in a manner beyond its purpose in a way that eventually results in harassing, extorting or oppressing, or otherwise gaining an unfair advantage over the other party. A common form of misuse has often been the exaggeration of facts, or willful repetition of arguments that have already been debated in one form or another, with the sole intention of continuing litigation. Misuse can also be in the form of false accusations or complete misrepresentation as well.

The ambit of misuse is wide and can be invoked in a number of areas of matrimonial law. False allegations of cruelty or dowry harassment under Section 498A of the Indian Penal Code has been a subject of intense debate including a call to repeal or recast section 498A. While the law is designed to protect wives against cruelty and harassment, it has been argued that its misuse has vitiated it of its effectiveness and fairness. Also, the diarchy created under maintenance/alimony acts can be invoked to shirk or to extort financial obligations.

Understanding when matrimonial laws are abused actually gets right at the intersection of legal ideas and social meanings, of what happens in our courts and what procedural features allow it to happen, and of the social context and the economic realities in which everyone is operating as they move in and out of the legal system.

## **II. OVERVIEW OF MATRIMONIAL LAWS**

India has seen an evolution of its laws governing marriage since the 17th-century East India Company to present times, reflecting changes in public attitudes, judicial interpretation and legislative reforms, a product of an eclectic mix of Hindu, Muslim and colonial influence. Also, an insight into the complex legal norms governing matrimonial relationships in India.

### **(A) Evolution of Laws in the Domestic Context**

Before the colonial period, marriage in India was bound by personal laws: different traditions for different communities, each based on its own religious laws and customs. Hindus, Muslims, Christians and a variety of other communities each followed their own personal laws, which were largely based on the texts and customs of their religion.

**Hindu Matrimonial Laws:** The codification of Hindu laws started with the colonial provisions of Hindu Marriage Act in 1955, which standardized the legal regimes of marriage, divorce, desertion and adoption for almost all Hindus, Buddhists, Jains and Sikhs, abolishing the diversity that existed prior to it, especially polygamy, and providing for divorce on various grounds, including cruelty, desertion, conversion, unsoundness of mind, and virulent and incurable leprosy.

**Muslim Matrimonial Laws:** Muslim personal laws are derived majorly from Quran and Hadith (anecdotes of the prophet's sayings and actions), and, unlike the Hindu laws, there is no similar codification of its principles. Under the Muslim Personal Law (Shariat) Application Act, 1937, Muslims can regulate their marriages and divorces through their personal law, which gives recognition to various principles of Islam. A marriage, a divorce, a maintenance (nafaqah), tolerance for Triple Talaq etc, are all supervised under the personal laws governing a Muslim. Although, in the recent past, there has been a wave of critical legal gaze over the term 'personal laws and the customary lack of accountability enjoyed under their application, such as the popularly known case *Shayara Bano v. Union of India*<sup>3</sup> by the top Indian court, which declared instant triple talaq illegal. A man could declare him divorcing his wife through a text like 'Talaq Talaq Talaq'.

That's why Christians – and only Christians – in India are subject to the Indian Divorce Act 1869, a throwback to colonial times that governs marital matters for them. It allows for divorce for 'constable'-like reasons, much like the secular laws. There's also the Special Marriage Act (1954), which enshrines secular provisions of marriage and divorce that are open to all Indian citizens, irrespective of creed, and that permit inter-religious and mixed civil marriages.

### **(B) Influence of International Legal Frameworks**

Above all, the evolution of matrimonial laws in India has mirrored international legal norms, more specifically through conventions dealing with human rights and gender equality. Backed by international conventions, India's post-independent allegiance to global standards has bent

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<sup>3</sup> (2017) 10 SCC 1.

domestic laws.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): After India ratified CEDAW in 1993, various amendments were made to India's matrimonial laws to increase gender equality and protect women's rights within their marriage and in family relations. This includes amendments to the Hindu Marriage Act and the Criminal Procedure Code in order to accommodate women's right to separate residence and maintenance.

National commission for women This independent body was formed to advise the government on things such as women's wellbeing and civil rights. \* International Covenant on Civil and Political Rights (ICCPR) This is the mechanism through which India ratified the protection offered for personal liberty and equality before the law, which the judiciary in India is increasingly referring to in interpreting and enforcing matrimonial laws.

Due to this complex interplay between domestic custom and international legal norms, matrimonial law in India has become a dynamic and evolving one, constantly changing to accommodate changing social values and international obligations, seeking to balance tradition and modernity and the rights of individuals and the communal order.

This long, dynamic history provides the context for what they mean and look like today, as well as how they can be significantly misused, both under domestic law, and by way of reference to principles of international law.

### **(C) Key Provisions and Their Intent**

The provincial matrimonial laws in India are governed by various provisions which have been designed in order to deal with the various aspects of rights and protection of the parties to the marriage. They usually involve protection from domestic violence, maintenance/alimony and child custody and support, all but with different implications in law. The various issues are decided and governed under both the statutory as well as common law principles.

#### *Protection against Domestic Violence*

The purpose in devising laws to protect victims of domestic violence would be to aid abused persons and to grant them some relief in the context of lives lived in a shared home. One statute that bears upon this question is the Protection of Women from Domestic Violence Act (PWDVA), 2005, which defines domestic violence as 'any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it – a) Harms or injures or endangers the health, safety, life, limb or wellbeing, whether mental or physical, of the aggrieved person or tends to do so, or b) Drives the aggrieved person out of her or his home, or

places her or him in a situation wherein she or he has to apprehend violence, or c) Inflicts on the aggrieved person harassment, harm or injures, or endangers her or his life, limb or wellbeing, whether mental or physical; or d) Having the effect of threatening the aggrieved person or any person, relatively dear to her or him, a domino effect of such acts mentioned in sub-clauses (a) to (c), with or without any of these acts being committed.’ The PWDVA ranks among the key juridical weapons in the fight against domestic abuse. Its ‘purpose is not only to protect the aggrieved person from being victimized or harmed; but also, to provide her/him with relief.’ This relief is granted not only through grant of protection orders but also orders in respect of residence and shelter or other monetary relief.

*S.R. Batra v. Taruna Batra*<sup>4</sup>: It is now settled as beyond doubt that the wife is entitled, as of right, to shelter under the PWDVA... The right of the wife to ‘shared household’ does not get extended to properties of the relatives of the husband, and much less, to the ‘matrimonial home’ which has never been shared by the parties to the marriage.

Legislative intent here is to provide a safe cocoon to those vulnerable to violence and abuse, often perpetrated in the name of marital relationship, but is often misused by way of false complaints as weapons of retribution or as leverage in matrimonial disputes.

#### *Alimony and Maintenance*

Laws regarding alimony and maintenance are enacted for the purpose to keep a spouse, who doesn’t have enough means, sustained by the other, irrespective of the dissolution of marriage. As per the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, rights of maintenance are conferred to wife as well as to husband in a number of situations.

Section 125 of the Criminal Procedure Code (CrPC) also gives maintenance, usually to a wife, children and, older parents. Which intends that no spouse after separation or divorce compromises to destitution and starvation dispossession.

*Rajnesh v. Neha*<sup>5</sup>: The quantum of maintenance is determined the judgment of the Supreme Court, which streamlined the formula for fixing the quantum of maintenance and reducing arbitrariness in maintenance orders, should become the judge in every court.

Such abuse might take place, for instance, when maintenance is claimed on exaggerated grounds, or in an attempt to ‘starve the breadwinner’ into giving in to the maintenance awards or settlement requested by the spouse. The risk of such abuse shows the necessity of building a culture in which societal expectations of support when relationships break down reflect the

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<sup>4</sup> AIR 2007 SC 1118.

<sup>5</sup> AIRONLINE 2020 SC 915.

reality of women's and men's roles within the home and outside of it, and their historical economic and social circumstances.

### *Child Custody and Support*

Child custody laws and provision of child support are designed to promote the welfare and best interests of children in case of separation and divorce. It is the welfare of the child rather than the rights of the parents that should be taken into account.

The Guardians and Wards Act, 1890, and the Hindu Minority and Guardianship Act, 1956, are the primary legislations that relate to the issue of child custody and provide for a series of factors that the court is directed to take into account when making a child custody order, including the age, sex and mental and physical condition of the child and the respective capacities of the parents to meet the needs of the child.

*Gaurav Nagpal v. Sumedha Nagpal*<sup>6</sup>: The Supreme Court said: 'Ultimately, in deciding the question of custody ... the paramount consideration is the welfare of the child, and no other consideration is of any consequence.'

Abuse in this context almost always means one parent wrongly manipulating the child into telling falsehoods against the other parent in order to gain a better financial or property settlement, or to punish the other parent by restricting the child's access.

### **(D) Objectives and Intended Protections**

The goals of Indian matrimonial law are to promote equality and equity, create marriages that will last, and protect the rights and liberty of spouses and children. These goals are embedded in family law, which seeks to balance the interests of family members and respond to socio-legal change and international human rights law.

### *Equality and Fairness*

Matrimonial laws are made to be gender-neutral, in order to command equality and justice between the parties irrespective of their sex. This principle is reflected in many of the most famous legislations and judicial decisions in the family and matrimonial law in India.

For example, provisions in the Hindu Marriage Act, 1955, and in the Special Marriage Act, 1954, give equal rights to both the parties to ask for divorce and maintenance, thereby ensuring an equal position for both parties in matrimonial affairs, which is a pre-requisite for legal and fair adjudication of divorce and proceedings thereafter.

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<sup>6</sup> AIR 2009 SC 557.

Courts have also strengthened this rule: see *Anjana Kishore v. Puneet Kishore*<sup>7</sup> which interpreted that maintenance shall be made in proportion to the life style and standard of living of the parties and as far as reasonably possible ‘equity demands that economically weaker spouse should get a full share’.

The goal of equity should be to give effect to the parties’ intention, not confined to a simple division of financial or marital assets or maintenance, but also a more nuanced recognition of domestic rather than economic contribution. In granting judicial separation, the Supreme Court has interpreted one ruling after another in an increasingly dynamic way, as a broad framework to contribute more attention to non–financial contributions that are far too often invisible in economic reckonings.

#### *Safety and Welfare of Spouses and Children*

Matrimonial laws also aim to protect the ‘very self’ of spouses and children – their physical, emotional and psychological wellbeing – especially important in a socio-legal context where family disputes sometimes escalate into domestic battering or abuse.

Protection from Domestic Violence: this objective is particularly served by the Protection of Women from Domestic Violence Act, 2005, which contains a wide definition of abuse and includes physical, sexual, verbal, emotional and economic abuse. The Act provides remedies such as orders for protection, orders concerning custody of children, but the scheme is reinforced by the obligation of emergency response set out in the Act.

Children’s Custody and Welfare: In cases of children’s custody, the provisions of both the Hindu Minority and Guardianship Act, 1956 and Guardians and Wards Act, 1890 place prime importance on the child’s welfare. The legal mandate that child’s welfare must be the paramount consideration, ensures that all courts and judicial decisions on matters of custody are taken with child’s best welfare at the forefront determined on the basis of child’s safety, schooling continuity, emotional development and the requirement of psychological stability.

In the recent case of *Roxann Sharma v. Arun Sharma*<sup>8</sup>, the Supreme Court reiterated the welfare principle, pointing out that ‘parental rights are to give way to the overarching need to protect and promote the welfare of the child’ Therefore, it said, ‘no rigid formula or rule, whether based on a predetermined principle or past practice, is to be applied’.

While these and other support-seeking protective measures can be used to facilitate fair, sensible and safe resolutions of divorce and separation, the misuse of these measures is evident when

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<sup>7</sup> (2002) 10 SCC 194.

<sup>8</sup> AIR 2015 SC 2232.



parties in matrimonial disputes make false or fabricated claims in order to gain leverage in negotiations, or to acquire custody or property, or in other circumstances when such laws, made to be protective, are misused to harass the other party. These tactics serve not only to undermine the spirit of the laws, but also to overburden the judicial system and potentially cause harm to the recipients of such support.

### **(E) Specific Laws and Allegations of Misuse**

#### **1. IPC Section 498A (Cruelty by Husband or Relatives of Husband)**

Section 498A of the Indian Penal Code is one of the hard-hitting legislations brought to deal with the scourge of dowry deaths and cruelties towards married women at the hands of their husbands and the husband's relatives. It categorizes the offence as a cognizable, non-bailable, non-compoundable offence, meaning:

- 1) the police can make a warrantless arrest.
- 2) compromise between the accused and the complainant is not allowed. Section 498A was specifically enacted to provide protection to married women from violence and harassment at the hands of their husbands or the husband's family that may result due to forceful demands for dowry.

The section defines 'cruelty' to mean any willful conduct that is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman, or harassment with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman and includes willful conduct which is likely to drive the woman to end her life or to cause grave injury or danger to, or risk, her health (mental or physical) it is noticeable that the legislature aimed at casting the web of a particular law as wide as possible so as to engulf an often large spectrum of abuses that married women may suffer at the hands of their husbands in, or outside their marital homes.

Intended as a metaphor for a just law, Section 498A can in many instances be said to reflect its namesake proverb because the evidence suggests that the law has indeed been used to harass and blackmail husbands and their families. Case studies and reports have claimed that 498A is regularly used as a weapon to harass, blackmail or at the very least, force husbands and/or their families into a negotiated agreement.

Case Example 1: Husband harassed along with entire family based on the wife's complaint: The court arrested 35 people (almost entire members of husband's family) on the wife's complaint.

It came to light during the course of the case that the complaint was a way for the wife to extract an advantageous financial settlement in an existing and ongoing marital dispute of the couple. All the people (excluding accused Husband) were arrested on the basis of the agency-created report and despite no specific allegations or investigation being carried out. Court found Husband not guilty due to lack of evidence but not before his family spent nearly four months in jail and was blacklisted within their community.

Case illustration 2: In another case, an NRI (meaning a non-resident Indian citizen of India) was falsely blamed by his wife. Such filings affect his career and status in his workplace abroad. In fact, per the complaints, it was proved that the wife was fabricating the allegations against her husband to compel him to meet her demands for higher alimony.

These cases illustrate the trend of husbands wielding Section 498A as a sword, rather than a shield, on the basis of disgruntlement, dragging the parties through the courts unnecessarily, malicious stigmatization of the husband and his family, and mental harassment of the said parties.

#### **(F) Judicial Responses to Allegations of Misuse**

The judiciary has been alive to the potential for abuse of Section 498A and has taken various steps to ensure that this potential abuse doesn't prevent the law from serving its true intent.

Supreme Court Guidelines (2017-18): In the case of *Rajesh Sharma v. State of U.P.*<sup>9</sup>, the Supreme Court issued directions to curb the abuse of Section 498A including: Setting up of a Family Welfare Committee by the District Legal Services Authority to screen the complaint before arrest. This decision was modified in *Social Action Forum for Manav Adhikar v. Union of India* and the requirement for Family Welfare Committees was rolled back by the Court on account of the fact that the guidelines were not aligned with the statutory framework.

Restraining Automatic Arrests: The Court has also held that the police must follow the direction that the police officers shall satisfy themselves about the necessity for arrest under clause (a) of sub-section (1) of Section 41 of the Code of Criminal Procedure, 1973, unless any of the other clauses mentioned in that section, permit arrest without such satisfaction. Hence, no arrests under Section 498 A could now be made without the police following the necessary legal procedure.

This framing reflects the judiciary's traditional balancing act – on the one hand seeking to curtail the loop-holes that allow excessive misuse, and yet on the other, viewing the provision as a

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<sup>9</sup> AIR 2017 SC 3869.

crucial vehicle for strengthening laws protecting women against cruelty and harassment at home. Courts' continuing adaptations and interpretations reveal the difficulties in legislating over social legislations as complex as those dealing with dowry or domestic violence, and emphasise the importance of a delicate balancing act that seeks to curb misuse without endangering genuine victims.

### **1. IPC Section 375 and 376 (Rape and Marital Rape)**

As for the law regarding rape, Section 375 and 376 of The Indian Penal Code (IPC) govern the offence and punishment respectively. According to Section 375 of IPC, rape is defined as a sexual intercourse by one man with a woman without the consent of the woman when one among the following circumstances exist: at the time of such intercourse, the woman is resisting, although the man knows about this, or the woman was intoxicated, unsound minded, unable to understand or communicate her consent, meaning thereby that she never consented to such intercourse, or if the man administered anything on the woman to make her submissive, believing that she won't be able to decline or if sexual intercourse by the man involved penetration by any object or any part of his body.

**Marital Rape Exception:** Section 375's most defining and controversial piece is the exception clause that declares that sexual intercourse by a man with his own wife, the wife is not under 15, is not rape, thus legalizing marital rape and a hotbed of litigation and civil society activism.

One additional issue that is mostly absent from other, non-matrimonial contexts – but quite prominent in matrimonial laws – is the allegation of misuse of marital rape. Two ways are discernible: the invocation of the marital rape exception in defense of otherwise criminal actions; and the filing of false allegations in the context of acrimonious marital battles.

**Misuse of Marital Rape Exception Would Grant License for Husbands to Commit Sexual Violence Against Their Wives** Marital rape exception has been described as granting license to husbands to perpetrate a spouse rape without qualms due to the protection from the marital rape exception. Perhaps most importantly is the fear that the legal exception can be misused to facilitate marital rape and other acts of abuse and misconduct within marriages due to the legal protective cover granted.

**False Allegations:** Moving in the other direction, there may be circumstances in which allegations of rape are made as part of broader efforts related to contentious divorces and custody disputes. In such cases, allegations of rape can serve as a devastating and revealing form of character assassination, threatening the accused's career and personal life, and may even be used for harassment, but also as a form of coercion in settlement negotiations with ex-

spouses or partners, otherwise used as a weapon of revenge or punishment.

## **2. Other Relevant Laws**

Matrimonial laws and related statutes contain many more provisions than just the general criminal laws of cruelty and rape: domestic violence and dowry harassment protection laws, maintenance laws and so on are all of great protective value to women, but can be equally misused, in a manner that seriously affects the integrity of the process, and the lives of the parties involved.

### *Protection of Women from Domestic Violence Act, 2005 (PWDVA)*

**Legal Provisions and Purpose:** The PWDVA was created to provide civil law redress for physically, emotionally, sexually and economically abused women at home through the duration of their relationship – sisters, mothers and widows/divorcees are all included in the definition of these relationships – thus providing scope under the law for a woman to seek rights to live in her home, maintenance and custody of children, as well as protection orders from the offending party.

**Misuse and Allegations:** The Act has been a boon for many women, yet in several instances the law has been misused, and more commonly, allegations have been maliciously levelled against the man for claiming domestic violence. It is not uncommon for accusations to allege exaggeration or falsification of instances of violence so as to leverage the advantage of marital disputes, who keeps what in a custody battle, and who owns what in a dispute over property. Misuse of PWDVA can result in undue legal pressure on the accused, jeopardize reputations, and potentially attract social and professional ostracism.

### *Dowry Prohibition Act, 1961*

**Legal frame and aim:** The aim of this Act is to curb the age-old practice of dowry. Dowry is the act which a woman's family is required to give the woman's future in-laws in the form of gifts, money, and other assets. The Act makes it an offence to give or take dowry, and imposes mandatory punishment on a guilty person, in order to discourage the deeply entrenched practice of dowry in Indian society.

**Misue and Abuse:** The fact that the spirit of the act was good did nothing to prevent it from becoming one of the most abused of Indian matrimonial laws. No sooner had the act come into force than lawyers and judges remarked on the growing proliferation of dowry-related cases in and out of court. Particularly as marriages came under strain in acrimonious separations, divorce lawyers on both sides began using dowry-related laws as weapons to eliminate all signs of

counterclaims against their own clients. In arson courts, it was just the word of the wife against the husband and his family – most often the word of a wife who might simply be inspired by the desire to punish her former lover and his kin Financially ruined by their arrests (under the non- bailable clauses of the Act), families have sometimes rid themselves of troublesome ex-husbands by hiring contract killers in the months following the arrests.

### **(G) Court Rulings and Legal Debates**

The Indian judiciary has been at the forefront of debates regarding marital rape and the implications of Sections 375 and 376 IPC for a long time.

Even though the courts have acknowledged the injury inflicted on women constituting marital rape, a reluctance to amend the marital rape exception remains. For example, the Supreme Court, in *Independent Thought v. Union of India*<sup>10</sup>, ruled that any sexual intercourse, even by a married man, with a girl less than 18 years of age was to be considered rape. It did, however, refrain from deciding on what constitutes marital rape with respect to adult women.

This exception to marital rape has been challenged on a variety of forums, including through petitions in the courts and through public advocacy. Legal scholars and women's rights activists argue that the exception violates the right to equality, dignity and bodily integrity; and is incompatible with international human rights standards.

These days, courts tend to show more caution to the possibility of false claims being made in marital disputes. For example, in *Preeti Gupta v. State of Jharkhand*<sup>11</sup>, the Supreme Court of India talked of the 'menace' of misuse of dowry laws and drew a comparison to require courts to do all they can to separate those cases of rape that are really genuine from those that are made as a pressure tactic.

However, the fact that discussion over Sections 375 and 376 of the IPC, particularly the exception to marital rape, still exposes such a tension reveals that the competing interests of genuine victims and legal abuse are still a force in the common law, statutory law and public attitude. The cases in Indian law show constant engagement with these issues, as the common law reconciles with the values of matrimonial law and human rights obligations. The resolution of the tension will likely continually ebb and flow as societal norms and values change and requests for the law to reflect modern thinking on marriage and personal rights grow.

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<sup>10</sup> AIR 2017 SC 4904.

<sup>11</sup> 2010 CRI. L. J. 4303.

### **III. MISUSE OF MAINTENANCE LAWS AND FALSE DOWRY HARASSMENT CLAIMS**

**Maintenance Laws:** Under several statutes including the Hindu Marriage Act, 1955 and under Section 125 of the Criminal Procedure Code, spouses as well as children can claim maintenance after the end of a marriage or separation. Maintenance laws are meant to prevent a spouse from having to live a life of penury after the end of the marriage or separation. It can also, however, be relied upon by exaggerated demands for maintenance or false filings and pleadings of little or no means to avoid paying maintenance.

**Misuse through False Dowry Harassment Claims:** As we discussed earlier, false dowry harassment claims invariably join the misuse of Section 498A of the IPC. This is done tactically, either to extract exorbitant financial settlements or as a retaliatory strategy during marital discord. Legal harassment is an inevitable corollary of this false claiming misuse, while the secondary objective of penalising a no-dowry orientation of the family is ironically frustrated because of it. Section 498A detracts law-enforcing agencies from giving proper attention to the many legitimate victims of dowry harassment.

Recognizing the scope for misuse of such protective laws, India's judiciary has grown more sensitive towards the need for diligence in the verification of complaints before arrest, especially among dowry-related complaints; judicial officers have been advised to take charge of the situation well in advance, and opt for mediation or counselling as preliminary steps before the legal adjudication of matrimonial disputes.

#### **(A) Forms and Examples of Misuse**

Misuse of matrimonial laws can take many forms, each of them harming people in one way or the other and also at the systemic level. This includes false accusations, false evidence, economic abuse, and also more systemic factors such as legal loopholes, inefficiency in enforcement, bias in legal proceedings and so forth. It is important that we not only understand how this misuse manifests, but also why it does.

##### **a. Forms of Misuse by Spouses**

- **Falsified accusations:** Either spouse might make a false accusation of domestic violence, dowry demands or the other spouse's cruelty, leading to further legal struggles and possibly to a wrongful legal verdict against the accused.
- **Evidence Manipulation:** Parties will fabricate evidence or doctor video, default losses or file bogus cases to influence judicial decisions and outcome.
- **Economic exploitation:** one spouse exaggerates his or her financial needs or conceals

custody to skew terms of settlement.

### **b. Systemic Misuse**

- **Legal Loopholes:** Ambiguities or outdated laws can be exploited to benefit one party unfairly.
- **Enforcement Inefficiencies:** Inefficiencies in the legal process, including delays, can worsen disputes and intervene as a determinant of outcomes.
- **Custody cases:** Stereotypes and biases are notoriously influential in custody cases and many other forms of family law where judgments need to be made in cases involving domestic abuse.

### **c. Societal and Cultural Factors**

- **Cultural stigmas** regarding divorce and separation can result in abusive or vague use of laws, both to avoid public shame or to retaliate against a spouse.
- **Gender Stereotypes and Bias:** Long-standing gender codes will influence the enforcement – and interpretation – of legal norms, disproportionately causing the negative consequences to favour those in positions of power and dominance.
- **Role of the media:** there is an element of publicity about matrimonial disputes, which may prejudice public as well as judicial perception and may even affect the ethos of the legal process.

Solving these problems requires a systematic approach to legal reforms, public enlightenment to counteract prejudice and stereotyping, improvements in courtroom education, and potentially, media regulation to ensure quality reporting. Matrimonial laws need to reclaim their credibility as instruments of justice.

## **(B) Impact of Misuse**

The misuse of matrimonial laws is not only prevalent, but also far-reaching and profound. Individuals, families, and public institutions are strongly affected. The undernoted blends the views of experts from specialized professions.

### **a. Individual Impact**

- **Psychological:** Individuals going through marriage-related disputes may suffer stress, anxiety, depression and Post-Traumatic Stress Disorder (PTSD) especially when the disputes take the legal routes and due to malicious accusations).
- **Financial:** Costs include attorney's fees and legal costs requiring considerable money; a

parent may be compelled to quit work and face long-term economic instability.

- **Social:** Accusations can result in social ostracism, cancellation, reputational damage and isolation, even if the accused is later found innocent.

#### **b. Family Impact**

- **Children:** Most of all, the necessity and continuing emotional and psychological impact on the lives of children can result in attachment issues, fear, and disruption to educational and socio-emotional development.
- **Family dynamics:** False allegations and lengthy family court cases are likely to eventually result in estrangement and permanent estate changes, loss of trust, and long-term conflict in families.

#### **c. Legal System Impact**

- **Judiciary Credibility:** If laws are being abused in this way, how can we trust judges to carry out their role neutrally? The credibility of the judicature is at stake.
- **Efficiency of the courts:** Frivolous litigation increases pressure on the courts, which reduces the efficiency of adjudication of important legal matters.

The second class addresses gaps in the law, enforcement practices and cultural approaches to broaden options such as mediation and arbitration that can share the burden on our courts to achieve justice, avoid inflation of the dispute and focus attention on actual damages.

### **(C) Addressing the Misuse**

There are, therefore, a series of very specific steps that can be taken to ensure that the laws were devised to protect women are not being used to oppress them. These include:

1. Make serious checks before they happen, to ensure they're actually real, before they progress.
2. Train police to detect false cases and close them more effectively, minimising wang bao.
3. Establish dedicated courts for false-accusation cases that will speed up the process and prevent misuse.
4. Launch public awareness campaigns on the harsh outcomes of abusing laws, to dissuade abuse.
5. But hand down stiff penalties for those found to have made false allegations, to provide a strong disincentive to abuse.



6. Push for greater use of mediation and counselling before proceedings are commenced, to help settle disputes more peacefully.
7. Preserve legal aid for women's organisations in countries that apply women's protection law; give 'the accused' legal aid and fair defence.
8. Collect and analyse data on law misuse in a systematic manner, so that one can discern trends and seek salient remedies.
9. Advocate for gender-neutral laws where appropriate, aiming for fairness and preventing gender-based misuse.

#### **IV. CONCLUSION**

India, especially, sees the misuse of matrimonial law is a complex web of socio-cultural, socio-ethical complications pointing to the individual, the family and the jurisprudence at large. Naturally, but necessarily, matrimonial laws carve out legal remedy for the spouses as well as for their children but misuse of the provisions signals a quicksand of evil for the individual. Manipulation of the matrimonial laws by false charges, flimsy pieces of evidence and economic blackmail is only a minor infection of systematic misuse of the provisions. Worse, the systematic misuse not only chokes the legal machinery but also endangers the individual by imbuing psychological, social or financial trauma.

Courts have responded to these challenges in a judicious way – it's hardly heartless, but rather much further from flippant. Courts seem to be taking increasing notice of the risk of abuse, and to be increasingly cautious to resist it. In 2015, the Supreme Court offered guidelines to curb the abuse of s498A, while emphasising due process safety, in part by asking courts to consider each bail application on its own facts. Debate about the success of these measures is a little contentious, and certainly suggests that reforms of a more effective nature remain to be introduced.

The second is that matrimonial laws are difficult to understand. Legal tidying, reforming the law by making grand statements about its meaning and intent with the aim of restoring popular belief in the legislative process, guarantees that misuse of the law cannot be considered in future, whether it be panel laws or the admission of new evidence. It may involve the use of technical legal language and higher evidentiary thresholds for admission in court. Judicial education may help in understanding the nuances of marital disputes and the potential consequences of judicial decisions. Legal aid must be available more widely, and the process must be shortened lest it overwhelm the courts.

Alongside this, public awareness and education about matrimonial rights and the misuse of law is another equally important necessity. Similarly, ethical media reporting of matrimonial issues is likely to impact public and judicial perceptions in the right direction. With respect to reforming divorce, there is more that the Indian Legislature can do to further the social change aspect of Baghel and Chankiya's advice. The prevailing trend of restive marriage and divorce through brief and premature marriages should not be allowed to impact the idea of marriage being sacrosanct for those who have made a life together. Quantity should not be allowed to supersede quality. To begin with, sex education needs to be incorporated as a compulsory subject in secondary schools across the country.

As a consequence, while the matrimonial laws are an important regime of rules to protect the parties to a marriage, the misuse of laws undermines the very values of justice and equality that the laws are meant to protect. Both legal and non-legal measures – whether in the form of legal reform or education and social intervention – can help address these problems so that laws fulfil their object of affording substantive justice to all persons.

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