

THE LEGALITES LEXSCRIPTA

Volume 1, Issue 4 (Oct.-Dec.-2025)

Page No. 376 to 382

Editor-in-Chief: - Prof. (Dr.) Aryendu Dwivedi, LL. D, NET

THE DARKSIDE OF LAW : AN ANALYSIS OF MISUSE OF LEGAL PROVISIONS IN INDIA

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ABSTRACT

Chaos in nation , it means the laws were designed with good intentions but nowadays in our system as well as in our society people started misusing these laws for personal gain and benefit . this research paper will be containing the data and will examine how the legal provision are being misused in India specially by women and will also enumerate the consequences of the same the data mentioned here in after will be based on primary study regarding said topic and the judicial probe and review. This research paper will discuss how misuse of legal provision affect our society and the judicial system in India as well the study will show that how the said misuse will harm the real victims as its obvious that if something is falsely claimed to be done several times , no one would it believe it to be true when it is actually done there are many cases in which the false allegations are alleged , there are many cases in which the women put false allegations upon their husband and their families with the intention of getting property from their husband or with the intention of getting compensation from their husband because most of the time the judgment of court goes into the favor of women .

The court observed that allegations of rape , sexual molestation , and other misconduct are levelled nowadays without an iota of truth so as to settle a score and also to compel the person against whom allegations are made to heed the illegal demands of complaint . Justice A Bathiudeen made the observation while quashing a rape case registered against a man on a complaint of woman . the court added that the concept could not be followed blindly without analyzing the truth of the allegations on a case-to-case basis .

Keywords :- Penal Code, Misuse, Legal Provisions, Rape Cases, 498A

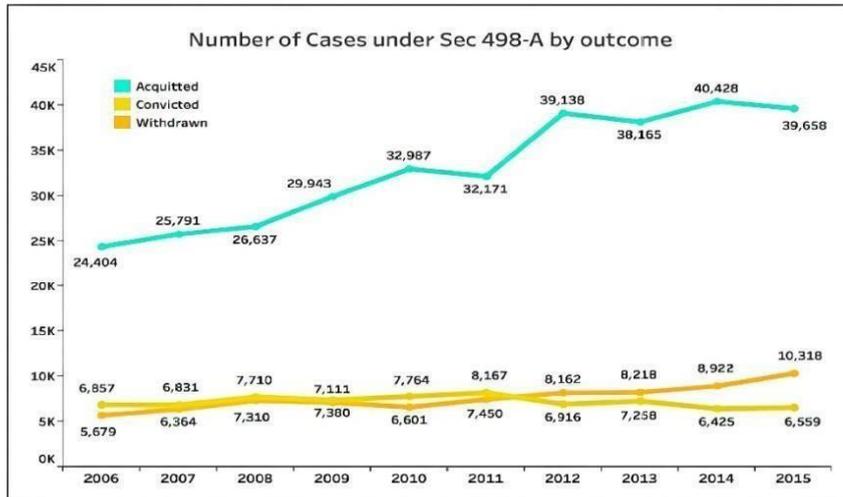
INTRODUCTION

India is known for its remarkable diversity. India is famous for its diverse culture, different religion , different religions, languages, and traditions, which cover a wide range. there are different religion in India and in every religion the women got a special place . the married women were given the title ‘ Ardhangini’ who considered to be a one who was believe to be

keep all the culture and religious activities in its way . but in past years they were treated very bad they have lost their rights their reputation as well as importance . in their married life whenever they get fail to bring their dowry from maternal house they were usually beaten by their husband and in laws as well . women had to face many cruelties by their husbands and his family. That's why the provision of dowry act was made to protects women from the cruelty they faced by their husband . the section 498A protects women who is facing cruelty. Women were provided power by this act to fight against the cruelty they had to face.

After the government made this provision, the women started using it for personal gratification and benefit and started misusing it . Misuse of legal provision is said to be as one of the controversial topics of today's period as the laws were made to protect the fundamental rights of the people and punish the person who is committing crime aur violating the rules and law of the constitution . people are making misuse of these laws by putting fake allegations and filing fake cases for personal gain . There are the laws which were enacted to safeguard to protect the women from cruelty , dowry death , harassment , from domestic violence . these provision act as a shield for women but it is found that these provisions s misused by women for gratification and personal benefit . it is seen in past few years these laws were acted as a loop hole in the constitution because they are misused by women . the women were use to put allegations on their husband and his family it is found that the false.

The allegation in Section 498A led to the imprisonment and punishment of innocent people. these practices is considered to be unconstitutional . these laws also raise an issue of a general biasness into the society . however, there are many countries which do not support the biasness in their country they support women under gender equality for example : Sweden and Canada. In particularly , women uses these domestic violence acts for their gains to harass their husband and family with the intention to extort money or to extort property as well. There are many countries who considered women under gender equality . as India is a country where custom and tradition are considered to be a priority . in past few decades the dowry provision was considered to be a blessing but soon it became and taken a face of monstrous practice that the Indian law put an effort to protect women from cruelty . there are many laws where the word 'man' is used in the law and restrict men from doing any such actions but there is no mention of women . for example : section 375 of IPC [INDIAN PENAL CODE] which is criticized for gender biasness . it defines and only recognized carnal intercourse without consent . this definition excludes other sexual assault and fails to considered or do not consider that man can also be act as victim of rape . this provision only founds guilty to men if any sexual assault is done by women towards any men, then there is no such provision for them . Section 497 of IPC talks about adultery and it says that if men is having any sexual relations with any other men wives, then he would be punishable by law , again this law is criticized for gander biasness.

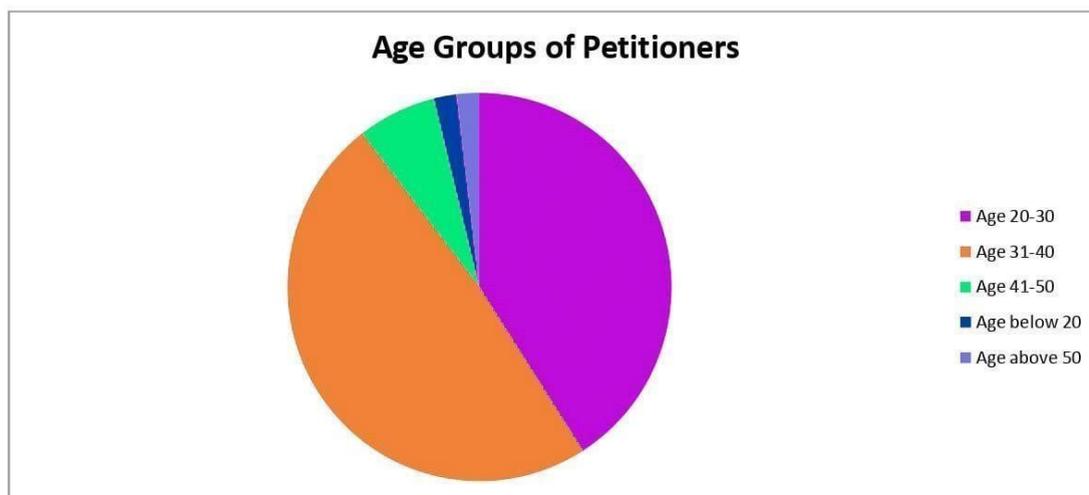


THE MISUSE OF SECTION 498A OF INDIAN PENAL CODE

The misuse of section 498 became the vogue of today's period . where the inception objective of this section was to safeguard the women from the cruelty and the harassment , it became apparatus for exploitation by some women who accuse their husband falsely under this section with the intention of exaction of money . the exploit of this section has led to a misappropriate discharge , as compared to judgement , resulting in an unpreventable undermining of the integrity of the law . the supreme court which had made this provision section 498A of the Indian penal code 1860 with the intention of protecting or safeguarding women from cruelty. It has been forced to acknowledge it in a possible misuse and also got a title as a legal terrorism.

This particular section is used for mala fide intention by women which became an Armor . There are numerous complaints about the abuse of this provision, along with judicial acknowledgment of such misuse; however, empirical evidence regarding the magnitude of the issue is limited, and the potential for exploitation becomes evident when situations like the current case arise. Still, because of the prevalent misuse, there is a growing perception that this law is an “anti-male” measure which has been taken .

According to the data of [NCRB] national crime records bureau crime report in India in 2020 , about 5% cases under 498A were found to be fake , 9.4% were either non – cognizable or with incomplete evidence.



FAKE ALLEGATIONS OF RAPE

Section 375 [rape] of IPC : the section 375 clearly says that a man is said to commit “ rape” if he :

{ a } penetrates his penis , to any extent , into the vagina , mouth , urethra or anus of women or makes her to do so with him

{ b } insert , to any extent , any object or a part of the body , not being the penis into the vagina

, the urethra or anus of a woman or makes her to do so with him or any other person

{ c } against her will

{ d } without her consent

As particularly , the section 375 of [rape] IPC makes responsible to men only , under this section men can be only considered to be accused person whereas women considered to a victim of rape . the section do not talk about; the sections do not consider the men's and transgenders as a victim of sexual assault

Section 69 of the BNS { Bhartiya Nyaya Sanhita } : under the section 69 of BNS it states that:

“ whoever

, by deceitful means or by making promise to marry a woman without any intention of fulfilling the same , and has sexual intercourse not amounting to the offence of rape , shall be punished with imprisonment of either description for a term which may extent to 10 years”

In this section it clearly says that “ making promise to woman without any intention to do so and has sexual relationship with her” will be punished . it means after making the sexual relationship which is done on the promise of marriage will only be considered to be a crime if a man do not fulfil conditions and not a woman .

Criminalizing the “ promise to marry “ which is considered under the right to privacy and ignores that the women was into the relationship with her will

There are many cases in which a woman put a false allegation on man with the intention of extorting money from him because the law of the country do not protect man or transgenders there are no such laws are made which safeguard the men or transgenders

Section 354 of IPC states that :

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty¹, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

It says that if someone physically assault the women or uses force against her or try to do so then he will be punished under this law . however, there is no such law which is made to protect the men from such actions or harassment or to protect transgender from such actions or harassment . it clearly states women to be a victim under this law . there are many cases in which men faces these problems in society and there are many cases in which women bully men and as well as the transgender . these problems are faced by men because there is no such law which safeguard the men or provide protection to them.

CONCLUSION

Therefore, we conclude that the modern-day abuse of protective legal provisions meant for the benefit of women against domestic violence and cruelty has become a serious nagging problem. Laws such as Section 498A of the Indian Penal Code were meant to protect women from harassment and uphold their rights. However, some unintended results of the abuse and exploitation of such laws have now tended to weaken the very soul of justice and equality that these laws were meant to provide. This horrible trend points to a serious dilemma: on the one

hand, there is a vital need to have provisions for protection against violence and discrimination, and on the other hand, they tend to become twisted and deformed for the selfish ends of individuals. False cases aimed at money or personal vengeance inflict maximum harm to the innocent victims and harm the credibility and prestige of the judicial system. The legal profession, in such instances, can have grave consequences for the accused, like social ostracization, emotional trauma, and court battles where they have to use valuable resources to take down an attack on their dignity so that they can come out as being defended. To definitely combat this misuse, any solution must truly be holistic.

Legal amendments need to establish a fair balance, thus protecting true victims from false accusations. Such legislation might involve certain measures, such as stringent penalties against those filing false complaints and clear standards for validating complaints. Another way to circumvent the abuse of such a law is to provide advanced training for law enforcement and judiciary officials about the sensibilities involved in such cases.

At the same time, public awareness campaigns on the community-level responsible use of these legal provisions should be duly emphasized. By making aware society about the potentially dangerous consequences of false allegations and encouraging a culture of accountability, it can facilitate a relatively more just application of the law. In addition, it is very important to create a gender-equal society. In doing this, we must understand that neither man nor woman is to be treated as innocent or guilty as per the whims of the law. In maintaining that the protective legislation works the way it must, i.e. for the benefit of all without misuse, there would lie an actual opportunity for social development of a just legal framework which will protect the rights of one and all. So, the discussion on the road towards a just legal system must go on. Our vision of a society based on all members' equality, fairness, and respect can be realized through the struggle for a just legal environment in which the protective law serves just that purpose and not one that leads to injustice.

