

# Misuse of Domestic Violence Legislation in India: A Doctrinal Analysis of Section 498A IPC and Section 84 of the Bharatiya Nyaya Sanhita

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## ABSTRACT

Section 498A of the Indian Penal Code was enacted to address cruelty and dowry-related violence against married women. While the provision has strengthened victim protection, its implementation has raised concerns regarding misuse and procedural imbalance. This paper examines the legislative evolution, judicial interpretation, and enforcement challenges associated with Section 498A IPC and its successor provision, Section 84 of the Bharatiya Nyaya Sanhita, 2023. Using doctrinal legal analysis, the study evaluates statutory provisions, Supreme Court jurisprudence, and scholarly literature to assess the balance between victim protection and due process. The analysis highlights concerns related to over-criminalisation, wrongful implication of family members, and judicial burden, while emphasizing the need for calibrated safeguards.

**Keywords:** domestic violence law; Section 498A IPC; Bharatiya Nyaya Sanhita; misuse of criminal law; due process; India

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## 1. Introduction

Dowry-related violence and domestic cruelty have long constituted serious social and legal challenges in India. Prior to the 1980s, such forms of abuse were often treated as private family matters, resulting in limited legal intervention and inadequate protection for victims (Bakshi, 2020; Gaur, 2021). In response to growing feminist advocacy and public concern, Section 498A was introduced into the Indian Penal Code in 1983 through the Criminal Law (Second Amendment) Act. The provision criminalised cruelty by a husband or his relatives toward a married woman, particularly in connection with unlawful dowry demands (Ratanlal & Dhirajlal, 2022).

Over four decades later, Section 498A continues to occupy a central position in India's legal framework addressing domestic violence. However, alongside its protective role, the provision has generated significant controversy

regarding allegations of misuse, arbitrary arrests, and procedural imbalance (Jain, 2014; Gupta, 2019). Judicial observations, academic commentary, and empirical data have increasingly pointed to concerns that the provision may, in certain cases, be invoked strategically during marital disputes rather than exclusively for addressing genuine instances of cruelty (Kishwar, 2008; Kumar, 2022).

The enactment of the Bharatiya Nyaya Sanhita (BNS), 2023, which replaces the Indian Penal Code, retains the substance of Section 498A as Section 84, thereby reaffirming the state's commitment to combating domestic violence. At the same time, the continuity of the provision raises critical questions regarding enforcement mechanisms, safeguards against misuse, and the broader implications for criminal justice administration, particularly in light of Supreme Court interventions aimed at curbing procedural

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excesses (*Arnesh Kumar v. State of Bihar*, 2014; *Kahkashan Kausar v. State of Bihar*, 2022). This paper seeks to examine these issues through a doctrinal analysis of statutory provisions and judicial interpretation.

## 2. Legislative Background and Evolution

Section 498A of the Indian Penal Code was enacted in response to increasing reports of dowry-related deaths, marital harassment, and domestic abuse against married women. The provision characterises “cruelty” as encompassing both wilful conduct likely to cause grave physical or psychological harm, including conduct that may drive a woman to suicide, as well as harassment arising from unlawful demands for property or valuable security (Gaur, 2021; Ratanlal & Dhirajlal, 2022). Classified as a cognizable and non-bailable offence, the provision reflects legislative intent to prioritise swift state intervention in cases of domestic cruelty (Bakshi, 2020).

With the enactment of the Bharatiya Nyaya Sanhita, 2023, the substantive framework of Section 498A IPC has been retained under Section 84, signalling continued legislative commitment to addressing domestic violence within the criminal justice system. At the same time, the preservation of its procedural features—particularly its cognizable and non-bailable character—has perpetuated longstanding concerns regarding potential enforcement excesses and procedural imbalance (Jain, 2014; Kumar, 2020).

The Supreme Court of India has consistently recognised the dual dimensions of Section 498A, acknowledging both its protective necessity and the risks associated with its misuse. Through a series of judicial interventions, the Court has sought to reconcile victim protection with procedural safeguards by issuing guidelines governing arrests and investigations, thereby attempting to prevent arbitrary or mechanical application of the provision (*Arnesh Kumar v. State of Bihar*, 2014; *Rajesh Sharma v. State of Uttar Pradesh*, 2017).

## 3. Methodology

This study employs a doctrinal legal research methodology grounded in qualitative analysis of authoritative legal materials. Doctrinal research is particularly suited to examining the interpretation,

application, and evolution of statutory provisions within a criminal justice framework, as it enables systematic evaluation of legal norms and judicial reasoning (Gaur, 2021; Jain, 2014). The primary sources analysed in this study include statutory texts, notably Section 498A of the Indian Penal Code and its corresponding provision, Section 84 of the Bharatiya Nyaya Sanhita, 2023, along with relevant provisions of the Code of Criminal Procedure. In addition, decisions of the Supreme Court of India and selected High Courts form a central component of the analysis, particularly judgments addressing arrest procedures, evidentiary standards, and safeguards against misuse (*Arnesh Kumar v. State of Bihar*, 2014; *Kahkashan Kausar v. State of Bihar*, 2022).

Secondary sources consist of peer-reviewed journal articles, scholarly commentaries, legal textbooks, and policy-oriented analyses that examine the objectives, implementation, and consequences of domestic violence legislation in India (Bakshi, 2020; Kishwar, 2008; Kumar, 2020). These materials are used to contextualise judicial interpretations and to identify recurring academic concerns relating to over-criminalisation, procedural imbalance, and due process. Through a thematic and comparative reading of primary and secondary sources, the study seeks to trace interpretative trends, assess enforcement challenges, and explore normative tensions between victim protection and fairness to the accused. By integrating statutory analysis with judicial and scholarly perspectives, the research aims to contribute to criminal justice discourse on the design and implementation of gender-sensitive legislation within constitutional and procedural limits.

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### **4. Review of Literature**

Scholarly engagement with Section 498A of the Indian Penal Code reveals a diverse range of perspectives concerning its objectives and practical consequences. Kishwar (2008) critically evaluates the unintended effects of gender-protective criminal legislation, observing that such laws may, in certain circumstances, yield adverse outcomes when procedural safeguards and investigative scrutiny are inadequate. Her analysis highlights the importance of judicial oversight and balanced enforcement to ensure that protective provisions do not undermine principles of fairness and due process.

Legal commentary by Kapoor (2018) focuses on procedural challenges arising from exaggerated or unfounded complaints under Section 498A, particularly in the context of matrimonial disputes. Kapoor emphasises the corrective role of the higher judiciary in scrutinising evidentiary sufficiency and exercising inherent powers to quash proceedings that fail to meet established legal thresholds. His work underscores the significance of judicial intervention in preventing misuse of the criminal process while preserving the law's protective intent for genuine victims of domestic cruelty.

Dogra's (2024) case-based analysis examines judicial approaches to allegations of cruelty against husbands, drawing attention to the evidentiary standards applied by courts in assessing claims of mental cruelty and wrongful implication. By analysing acquittals and dismissals in selected cases, Dogra illustrates how courts have sought to distinguish between legitimate instances of victimisation and allegations arising from marital discord. This scholarship advocates for a more calibrated and evidence-driven application of Section 498A that recognises the complexity of matrimonial relationships.

Taken together, the literature indicates that although Section 498A plays a crucial role in addressing domestic violence, its enforcement raises persistent concerns related to proportionality, procedural justice, and the balance between victim protection and safeguards for the accused (Jain, 2014; Kumar, 2020).

### **5. Judicial Interpretation and Enforcement Challenges**

Judicial interpretation of Section 498A of the Indian Penal Code has undergone substantial refinement over time, with courts seeking to delineate the boundaries of criminal liability in matrimonial contexts. Through a series of decisions, the judiciary has clarified that the statutory concept of "cruelty" must be distinguished from ordinary marital discord, emphasising that only conduct of a gravity contemplated by the provision warrants criminal sanction (Gaur, 2021; Ratanlal & Dhirajlal, 2022). Despite these interpretative efforts, significant enforcement challenges persist, particularly in relation to arrest practices and the frequent inclusion of extended family members as accused persons, often at the preliminary stage of investigation (Jain, 2014; Kumar, 2020).

A major judicial intervention occurred in *Arnesh Kumar v. State of Bihar* (2014), wherein the Supreme Court of India curtailed the practice of routine and automatic arrests under Section 498A. The Court mandated strict adherence to procedural safeguards prescribed under the Criminal Procedure Code, including the requirement of reasonable satisfaction regarding the necessity of arrest. This decision underscored the importance of proportionality and due process in the enforcement of domestic violence legislation. Subsequently, in *Rajesh Sharma v. State of Uttar Pradesh* (2017), the Court recommended the establishment of Family Welfare Committees to conduct preliminary scrutiny of complaints before coercive measures were initiated, reflecting judicial concern over mechanical application of the law.

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Notwithstanding these safeguards, empirical data published by the National Crime Records Bureau reveal consistently high acquittal rates in prosecutions under Section 498A, prompting critical examination of investigative practices, evidentiary thresholds, and prosecutorial discretion (NCRB, 2022). While acquittal statistics alone cannot conclusively establish misuse of the provision, they draw attention to systemic inefficiencies within the criminal justice process and the potential costs of over-inclusive enforcement. From a criminal justice perspective, these trends highlight the need for improved investigative rigor, clearer evidentiary standards, and sustained judicial oversight to ensure that the objectives of victim protection are achieved without compromising procedural fairness or overburdening the courts (Kishwar, 2008; Singh, 2019).

### **6. Allegations of Misuse and Criminal Justice Implications**

Scholarly and judicial discourse surrounding Section 498A of the Indian Penal Code has increasingly drawn attention to recurring allegations of misuse in its enforcement. These concerns commonly relate to the strategic invocation of the provision during matrimonial disputes, the routine implication of elderly parents and distant relatives of the husband, and the reputational, psychological, and social consequences experienced by accused individuals and their families (Jain, 2014; Sharma, 2018). The classification of the offence as cognizable and non-bailable intensifies these apprehensions by permitting arrest at an early stage of investigation, often before comprehensive fact-finding has taken place (Bakshi, 2020; Kumar, 2020).

From a criminal justice standpoint, such allegations raise broader normative questions regarding over-criminalisation, proportionality, and procedural fairness. The wide interpretative scope of Section 498A, coupled with its stringent procedural features, may in certain cases place pressure on foundational principles such as the presumption of innocence and the requirement of necessity in the use of coercive state power (Gaur, 2021; Ratanlal & Dhiraajlal, 2022). Moreover, the extensive use of criminal process in matrimonial disputes has been associated with increased burdens on investigative agencies and courts, contributing to delays and resource constraints within the justice system (Singh, 2019; NCRB, 2022).

At the same time, legal and policy discourse consistently cautions against reforms that might weaken the protective objectives of Section 498A. Any recalibration of the provision must therefore carefully balance the need to prevent misuse with the imperative of ensuring effective legal remedies for victims of domestic cruelty and dowry-related abuse (Kishwar, 2008; Kumar, 2022). From this perspective, the challenge lies not in diluting the substantive offence, but in refining enforcement practices and procedural safeguards to achieve a more equitable and proportionate application of domestic violence legislation.

### **7. Procedural Safeguards and Legal Remedies**

Indian courts have increasingly acknowledged the necessity of procedural safeguards to mitigate the potential misuse of Section 498A of the Indian Penal Code. Through judicial interpretation, a range of protective mechanisms has evolved, including the grant of anticipatory bail, the exercise of inherent jurisdiction to quash proceedings lacking prima facie merit, and the formulation of guidelines regulating arrest practices in matrimonial offences (*Arnesh Kumar v. State of Bihar*, 2014; Jain, 2014). In addition, courts have encouraged the use of mediation and counselling in appropriate cases as alternative dispute resolution mechanisms, with the objective of addressing matrimonial conflicts without immediate recourse to criminal prosecution (*Rajesh Sharma v. State of Uttar Pradesh*, 2017).

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These safeguards reflect an incremental and case-driven judicial strategy aimed at balancing the competing interests of victim protection and procedural fairness. However, the effectiveness of such measures remains contingent upon their consistent and uniform implementation by law enforcement agencies and subordinate courts (Kumar, 2020; Singh, 2021). Variations in investigative practices and discretionary decision-making continue to influence the extent to which judicial guidelines are translated into practice. Furthermore, the regulatory framework is complicated by the limited enforcement of legal consequences for demonstrably false or malicious complaints. Although statutory provisions exist to address false accusations, their infrequent invocation has contributed to concerns regarding accountability and deterrence (Bakshi, 2020; Sharma, 2018). From a criminal justice perspective, these factors underscore the need for strengthened institutional mechanisms that ensure procedural safeguards operate effectively while preserving the protective objectives of domestic violence legislation.

### **8. Discussion**

The continuing debate surrounding Section 498A of the Indian Penal Code reflects a broader structural tension inherent in victim-centric criminal legislation, namely the challenge of reconciling protective objectives with foundational due process guarantees. Comparative criminal justice scholarship has observed similar tensions across multiple jurisdictions, where domestic violence statutes must simultaneously ensure effective protection for victims while safeguarding against procedural excesses and wrongful criminalisation (Kishwar, 2008; Singh, 2021). These debates underscore the difficulty of designing legal frameworks that are both responsive to gender-based violence and consistent with principles of proportionality and fairness.

Within the Indian legal system, the replacement of the Indian Penal Code by the Bharatiya Nyaya Sanhita presents an institutional opportunity to re-evaluate enforcement practices associated with domestic violence offences without weakening their substantive protections. Judicial commentary and academic analysis suggest that improvements in investigative rigor, clearer evidentiary thresholds, and more restrained use of arrest powers may enhance the legitimacy and effectiveness of the legal framework governing matrimonial offences (Jain, 2014; Kumar, 2020). Additionally, sustained judicial oversight and consistent implementation of procedural guidelines have been identified as critical mechanisms for maintaining equilibrium between victim protection and the rights of the accused (*Arnesh Kumar v. State of Bihar*, 2014).

From a criminal justice perspective, such recalibration does not necessitate dilution of the offence itself but rather a refinement of enforcement strategies that align legislative intent with constitutional and procedural norms. Strengthening these mechanisms may contribute to a more balanced and credible system of domestic violence adjudication in India.

### **9. Conclusion**

Section 498A IPC, now reflected as Section 84 of the Bharatiya Nyaya Sanhita, remains a cornerstone of India's legal response to domestic cruelty and dowry-related violence. While the provision has empowered countless victims, its implementation has also generated concerns regarding misuse, procedural imbalance, and strain on the criminal justice system.

This study demonstrates that the challenges associated with Section 498A do not arise from its legislative intent but from enforcement practices and procedural design. Addressing these challenges requires calibrated reforms that preserve victim protection while strengthening safeguards against overreach. A balanced approach is essential to ensure that domestic violence legislation continues to serve the interests of justice, equity, and social trust.

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