

COURTS, POLICE AND CRIMINAL JUSTICE IN CASES OF SECTION 498-A: AN ASSESSMENT



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Section 498-A of the Indian Penal Code presents a picture of acute contradictions as far as issues of justice for victims are concerned. While on the one hand there are serious concerns about protecting women from their violent spouses, on the other hand there are frequent allegations of abuse of this section against innocent men. Courts have contributed significantly to the culture of victim-blaming and perpetuated stereotypes of victims of domestic violence. Contrasting judgments have not only convoluted the understanding of matrimonial cruelty but have also curtailed police powers in such cases. In doing so, courts have frequently passed judgments emphasizing on the abuse of police process in cases of section 498 A and have also illicitly generalized all complaints under the section as frivolous. This approach has made the territory of police powers in matters of matrimonial cruelty in the Indian Penal Code extremely patchy and nebulous. This paper makes an attempt to showcase judicial trends that have led to confusion with respect to expected police response in cases of violence under section 498-A and clears the air about the existing judicial position on this issue.

Key words -

Court, Police, Justice, Women, Offence

Section 498 A of the Indian Penal Code has witnessed backlash over its alleged misuse for a significant number of years. Currently, there are two contradictory approaches to this provision. On the one hand, newspaper columns are replete with painful stories of women being attacked, abused and often killed by the husband and his relatives¹ and on the other, there is a systematic, highly targeted opposition by men's organisations against this section, demanding its repeal². While the offences committed by the husband or his family members in these cases may amount to grievous hurt, unnatural offences, rape and murders, police and judicial approach to some of the most brutal cases of section 498-A is unpredictable.

Research indicates that like victims of rape, women approaching the criminal justice mechanism with complaints of matrimonial cruelty against their husbands are stereotyped and stigmatised at police stations and inside courtrooms. From Law Commission Reports³, to judgments of the Supreme Court- victims of domestic violence

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¹Kamakshi S, Latest NFHS-5 Data Shows 30% of Indian Women Face Domestic Violence and that's just the tip of the Iceberg, WOMEN'S WEB (Aug. 9, 2022, 8:05 a.m.) <https://www.womensweb.in/2022/05/nfhs-5-domestic-violence-latest-figures-show-not-much-has-changed-may22wk4sr/>.

²Law Commission, Report on Section 498-A IPC (Law Com No 243, 2012)

³id.

have been typecast as incredulous women misusing the criminal justice mechanism for ulterior and selfish objectives. Judicial decisions in the last decade have played a significant role in shaping public opinion towards this section and arguably, have also contributed to the perpetuation, if not genesis of existing biases and prejudices. The impact of these decisions is not only confined to the manner in which victims of matrimonial cruelty are treated by the judiciary but also extends to police behaviour towards them. This is a troubling issue as the police happen to be the first point of contact for victims in such cases, when women choose to trigger the criminal justice mechanism. Reports suggest that a miniscule portion of women who are victims of matrimonial cruelty muster the courage to file FIRs and therefore, the manner in which the police respond to them would be crucial in securing their rights.

In this article, an effort has been made to clear the thicket of contradicting judicial decisions guiding police behaviour towards victims of section 498-A and chart out the obligations of the police towards them. It is argued that police and judicial behaviour towards victims of matrimonial cruelty is far removed from ground reality and that needs to be rectified urgently to prevent escalation of violence and its culmination in homicides.

Legislative Intent and Historical Purpose of Introduction of section 498-A

Despite the pervasiveness of domestic violence, India did not have laws to tackle the menace even after three decades of the enforcement of the Constitution⁴. India's lackadaisical attitude towards law-making in this area resonated with the international community's general reticence towards domestic violence. Even until the latter half of the twentieth century, International Law did not concern itself with domestic violence, discounting it as a private problem between non-state actors⁵.

Ultimately, the need to criminalise matrimonial cruelty was felt in India in the context of prolonged and consistent abuse of women in their matrimonial homes. International organisations pointed out that the impact of such violence is not just on women but also on the overall health and well-being of future generations. The World Health Organisation drew global attention towards the stunted social and emotional well-being of children in societies where violence against women in families is rampant and consistent⁶. Not only that it also pointed out that the social and economic costs of such violence are too high and affect overall productivity of people⁷.

As a consequence of the New Women's movement that peaked during the 1970s, violence against women was at the centre of the feminist agenda⁸.

In the 1980s, the focus of Indian feminists was on legislative reform. It was around this time that issues of bride burning and other forms of matrimonial violence received

⁴IPC S. 498- A, inserted by The Criminal Law (Second Amendment) Act, 1983.

⁵Dorothy Q Thomas and Michele E Beasley, Domestic Violence as a Human Rights Issue HUM.RTS.QTRLY. 15, 35-36 (1993)

⁶WHO, Violence against Women, UNITED NATIONS <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> (Aug. 10, 2022, 12:30 PM)

⁷Ibid.

⁸Kaamila Patherya, Domestic Violence and the Indian Women's Movement: A Short History, INQUIRIES <http://www.inquiriesjournal.com/articles/1702/domestic-violence-and-the-indian-womens-movement-a-short-history>(Aug.10,2022, 12:01 PM)



serious attention from feminists, along with other forms of physical, mental and sexual violence against women⁹. As a consequence of sustained efforts of Indian feminists, new laws were inserted to tackle the problem of domestic violence. The earliest effort to penalise domestic violence was by criminalising it in 1983 under section 498 A. Under this section, matrimonial cruelty was given the status of a cognisable and non-bailable offence punishable with imprisonment for up to three years and a fine. Cruelty was defined to include both physical as well as mental cruelty and any harassment associated with a demand for dowry¹⁰. On the same note, section 304 B was introduced into the IPC in 1986 for dealing with dowry deaths.

Connotations of Matrimonial Cruelty under section 498-A

As a concept, 'Cruelty' within a marriage has both civil and criminal connotations. As the subject matter of Personal (civil) law, matrimonial cruelty is a ground for termination of marriage through divorce¹¹. As a ground for divorce, it is available to both the spouses irrespective of gender. Matrimonial cruelty, in this form, is not necessarily dependent on the intention of the erring spouse and personal laws do not indicate an extent or degree of cruelty for the ground to apply. On the other hand, matrimonial cruelty under section 498 A of the Indian Penal Code, is punishable only when it is of such measure that it causes grave injury to the physical or mental health of a woman or drives her to commit suicide¹². Thus, mere marital discord, verbal duels or minor scuffles, which in the language of courts, qualify as 'ordinary wear and tear of marriage' do not form the subject matter of section 498-A¹³. The section includes within its ambit but is not limited to, harassment for dowry and coercive dispossession of property or valuable security by the husband or his relatives.

Unlike personal laws, the benefit of the criminal provision is available only to women. This is a special law that was inserted into the Indian Penal Code in 1983 by an amendment, as a response to wide spread instances of bride-burning that had become a matter of national concern¹⁴. The same amendment inserted section 304-B into the Indian Penal Code and made changes to the Indian Evidence Act to facilitate criminal proceedings in such matters, where evidence and witnesses in favour of the deceased are usually hard to find, considering that the victims are usually violated or killed in the privacy of their matrimonial homes. Section 498 A of the Indian Penal Code, therefore, is a legal provision that came into existence to address a pressing social need, which was to punish violence against women inside their matrimonial homes. For the majority of Indian women, traditionally, matrimonial homes are those of their husbands and the families of such husbands and therefore, section 498-A had to be designed in a manner that women could have a cause of action against their married partners and their families, when they faced violence.

Judicial opinion on the question of what constitutes matrimonial cruelty has not crystallised over time and as a consequence, the difference between a discord or dispute

⁹Id.

¹⁰Id.

¹¹Hindu Marriage Act, 1955, S. 13(1) (ia), No. 25, Acts of Parliament, 1955 (India).

¹²Indian Penal Code, 1860, S. 498-A, No. 45, Acts of Parliament, 1860 (India).

¹³Samar Ghosh v Jaya Ghosh (2007) 4 SCC 511

¹⁴Indira Jaising, Concern for the Dead, Condemnation for the Living, EPW. 34, 34-35 (2014)

and a criminal offence remains unappreciated by courts. For instance, sometimes courts have relied on frequency of domestic abuse and cruelty against the woman to determine the applicability of section 498-A, although the law does not spell out any such requirement. At the same time, judicial pronouncements point out that irrespective of the frequency of such abuse, derogatory conduct of the husband or his relatives such as kicking the married woman, taunting her for her looks or humiliating her for her inability to bear a child amount to matrimonial cruelty within the meaning of section 498-A. Thus, what amounts to cruelty in one case, is not necessarily ruled as cruelty in another and these decisions set confusing precedents.

Chequered judicial decisions, apart from obfuscating the meaning of cruelty, also lead to large scale acquittals. While the reasons for these acquittals may be many and do not in any way point towards the complainant being frivolous, the fact of such acquittals is used to count against victims- by courts, the police and the public, painting portraits of victims as incredulous, selfish women with ulterior motives¹⁵. A plethora of judgments of the Supreme Court in the last decade stand testimony to this trend.

Constitutional Challenges to section 498-A

Section 498-A of the Indian Penal Code has faced challenges to its constitutionality on several occasions. Although the constitutionality of the section has been upheld in these cases, courts have made unsympathetic observations impeaching the credibility of victims. These observations, combined with the fact of a large number of acquittals in these cases, paved the path of towards restricted powers to the police in cases of section 498-A.

In 2005, the constitutional validity of section 498 A was challenged in the case of Sushil Kumar Sharma¹⁶. Although the Supreme Court upheld the constitutionality of section 498 A, it noted that the section is abused on numerous occasions by "unscrupulous persons" to unleash "legal terrorism" on innocent husbands¹⁷. The Court stated as follows;

"Merely because the provision is constitutional and *intra vires*, does not give a licence to unscrupulous persons to wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations."¹⁸

However, on the question of constitutionality of the section, the Supreme Court decided rightfully by referring to decisions in India and elsewhere that if a provision of law is otherwise constitutionally valid, it cannot be said to be unconstitutional merely because there is a potential to abuse it.¹⁹

While pronouncing the constitutional validity of the section on the aforementioned

¹⁵Law Commission Report, *supra* note 2.

¹⁶Sushil Kumar Sharma v Union of India (2005) 6 SCC 281.

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Id.*



ground, the Supreme Court relied on its earlier precedents and stated as follows:²⁰

"From the decided cases in India as well as in United States of America, the principle appears to be well settled that if a statutory provision is otherwise intra-vires, constitutional and valid, mere possibility of abuse of power in a given case would not make it objectionable, ultra-vires or unconstitutional. In such cases, "action" and not the "section" may be vulnerable. If it is so, the court by upholding the provision of law, may still set aside the action; order or decision and grant appropriate relief of the person aggrieved. In *Mafatlal Industries Ltd. and Ors. v. Union of India and Ors.*, [1997] 5 SCC 536, a Bench of 9 Judges observed that mere possibility of abuse of a provision by those in charge of administering it cannot be a ground for holding a provision procedurally or substantively unreasonable."²¹

Right after *Sushil Kumar Sharma's* case, in 2010, the case of *Preeti Gupta*²² raised similar issues in the Supreme Court. The Supreme Court observed that the Legislature needs to seriously revisit the section²³. The Court noted that it is a matter of common knowledge that exaggerated versions of complaints are reflected in numerous complaints and there is a common tendency to implicate the husband and all the in-laws in such cases. It is significant to note that the Court did not rely upon any research or data to place on record such observations. Other than that, the exact implication of the terms "common knowledge" and "common tendency" is nebulous and as such, should not have formed the major premise of the Court's conclusions with respect to section 498 A. The Supreme Court asked for a copy of the judgment to be sent to the Law Commission and Union Law Secretary to ensure that appropriate steps may be taken to protect the greater interests of the society²⁴.

Judicial Guidelines for Police Conduct in Cases of section 498-A

A life-altering event for all Indian women traumatised by matrimonial violence was the judgment passed by the court in *Arnesh Kumar's* case in 2011²⁵. In this case, the Supreme Court came down heavily on the alleged abuse of section 498-A. Labelling women victimised by matrimonial cruelty as 'disgruntled wives', the Supreme Court stated that the fact that section 498-A is a non-bailable and cognizable offence is abused by such women, who weaponize it for harassing their husbands²⁶. Without any reference to data, the Court also pointed out that in several cases, the husband's bed-ridden grandfathers, grand-mothers and even sisters residing abroad are arrested by the police²⁷. Pointing towards numbers, the Apex Court also stated that while the rate of charge-sheeting in cases of section 498-A is as high as 93.6%, the rate of conviction is only 15%- in doing so, the Court indicated that most of the cases filed by women are false²⁸. The Bench found the practice of mandatory arrests in these cases to be highly arbitrary and indicated that the police are responsible for gross abuse of section 498 A²⁹.

²⁰*ibid.*; *Mafatlal Industries Ltd. v. Union of India* (1997) 5 SCC 376; *State of Rajasthan v Union of India* (1977) 3 SCC 592; *Budhan Choudhry v State of Bihar* AIR 1955 SC 191.

²¹*Sushil Kumar Sharma*, supra note 16.

²²*Preeti Gupta v State of Jharkhand* AIR 2010 SC 3363.

²³*Id.*

²⁴*Id.*

²⁵*Arnesh Kumar v State of Bihar* (2014) 8 SCC 273

²⁶*Id.*

²⁷*Id.*

²⁸*Id.*

²⁹*Id.*

With the objective of curtailing police powers in arresting husbands and families of such husbands in complaints of matrimonial cruelty, the Supreme Court laid down that all State Governments must pass instructions to the effect that police officers must not make arrests automatically in cases of section 498A. A list of other guidelines was laid down, some of which are as follows:

- I. That all police officers must be provided with a checklist containing specified sub-clauses under section 41 (1) (b) (ii)
- ii. That such checklist has to be filled up duly along with a complete record of reasons that necessitated the arrest. Such filled up record has to be submitted by the concerned police officer to the Magistrate while producing the accused before him/her
- iii. That the record must be perused by the Magistrate and only upon complete satisfaction based on facts, must he permit detention of the accused
- iv. In case the accused is not arrested, a record of reasons for not making the arrest must be forwarded to the Magistrate within two weeks of the institution of the case
- v. Notice of appearance has to be served on the accused within two weeks of the institution of the case and the period may be extended by the Superintendent of Police and reasons for such extension must be recorded

In this case, the Court further laid down that if police-officers do not comply with the directions mentioned above, they will be liable for departmental action and may also be tried for contempt of court³⁰. Likewise, if judicial magistrates authorise detention in contravention of the aforementioned guidelines, they would be made liable for departmental action by the appropriate High Court³¹.

In 2017, in the case of *Rajesh Kumar Sharma v State of Uttar Pradesh*³², the Supreme Court was confronted with the question of whether or not there is a need for framing certain guidelines to curtail the abuse of section 498 A of the Indian Penal Code. In the trial court, the issue of dowry harassment and torture of the wife by the husband was confirmed and he was convicted under section 498 A of the IPC. It was the complainant's case that she was tortured and harassed for the inability of her parents to meet the demands for dowry and as a consequence of it, eventually, even her pregnancy was terminated. The facts were found to be true, however, the court found only Rajesh Sharma guilty. The complainant asked for a revision and claimed that appellants 2 to 5, i.e. her in-laws should have been summoned to court. Although the ASJ ordered in favour of the victim, appellants 2 to 5 went to the High Court under section 482 of Cr PC against the order of summons. Eventually, the High Court found no ground to interfere with the summons order and on this basis, an appeal was made to the Supreme Court on the issue of misuse of section 498 A and the need to curtail its ambit of involving all family members in cases of 498 A was emphasised by the Court. In this case, the Supreme Court issued certain guidelines for dealing with victims approaching various authorities under section 498 A. Some of the guidelines are listed below:

³⁰Arnesh Kumar supra note 25

³¹ibid.

³²2017 SCC OnLine SC 821.



- I. Firstly, the Division Bench recommended that in every district, at least one Family Welfare Committee may be constituted by the District Legal Services Authority. Such committee should consist of a minimum of three members. The constitution and working of this Committee has to be reviewed by the District and Sessions Judge of the district at least once a year.
- ii. Secondly, such Committees may consist of paralegal volunteers, social workers, retired persons, wives of working officers and other citizens who may be found "suitable and willing"
- iii. The members of Family Welfare Committees shall not be called as witnesses in courts
- iv. According to the Supreme Court, every complaint of section 498 A must be forwarded to the Family Welfare Committee, the members of which, may interact with the parties either personally or over phone
- v. The Family Welfare Committee will then be required to submit a report to the authority from which it received the complaint, within one month from the date of receipt of such complaint
- vi. The police shall not be authorised to make any arrests "normally" until the report of the Committee is received
- vii. On the issue of training of members of the Committee, the Apex Court recommended that they will receive basic and minimum training from time to time as may be considered necessary by the District Legal Services Authority. The members are entitled to receive honorarium as may be considered viable.
- viii. Complaints under section 498 A may be investigated only by a designated Investigating Officer
- ix. In cases where a settlement is reached, the District and Sessions Judge may dispose of the matter if he/she is of the opinion that it is "primarily matrimonial" in nature
- x. In case of bail applications, the Supreme Court opined that if they have been filed with at least one clear day's notice to the Public Prosecutor, such bail applications must be disposed of as far as possible, on the same day.
- xi. Further, impounding of passports or issuance of Red Corner notice should not be done routinely in cases registered under section 498 A
- xii. Finally, the Supreme Court also noted that these guidelines shall not apply in cases where the victim suffered "tangible physical injury or death".

This judgment of the Supreme Court is part of a series of judgments aimed at curtailing the ambit of section 498 A. However, these guidelines are questionable on many fronts. The primary purpose of section 498 A is to deter individuals from inflicting matrimonial cruelty on victims. Like other cognisable offences, the nature of this offence is non-compoundable. As reflected in the guidelines above, the Court's order of setting up Family Welfare Committees which have the authority of "settling" disputes under section 498 A may amount to judicial overreach and by doing so, the judiciary may have well transgressed into the domain of law-making and not just judicial interpretation. Further, the composition of Family Welfare Committees is also questionable. Matters of matrimonial cruelty deal with vulnerable victims and therefore, persons entrusted with resolution of such disputes must be adequately trained in these matters. However, there is a strong sense of non-seriousness which is reflected in the composition of these committees. For instance, the reason for involving 'wives of working officers' to deal with as sensitive an offence as section 498 A needs some serious reflection. The composition

of the Family Welfare Committees seems to suggest that no special qualifications or experience needs to be taken into consideration for intervention in cases related to 498 A.

While the Apex Court provides a rider to the applicability of these guidelines by stating that they may not be applicable in cases in which victims are tangibly injured physically or are dead, the circumstances under which these guidelines may still be applied are worthy of deliberation. Under the existing laws, Section 498 A may be invoked by a victim if grave mental cruelty has been inflicted on her or where the infliction of such cruelty may drive her to commit suicide. The purpose of enacting this provision was to make sure that matters of matrimonial cruelty did not escalate to the extent of causing irreparable injuries to the victim. Further, matrimonial cruelty often results in the homicide of victims. Therefore, arresting the perpetrators, aiders and abettors ensures the safety of the victim.

By labelling grave mental cruelty as something non-serious and visualising that it can be remedied like ordinary civil matters by Family Welfare Committees, most members of which are likely to have no expertise in handling such sensitive issues, problems of victims will be multiplied manifold.

At this juncture, it is pertinent to note the observations of the Law Commission of India in its 243rd Report. In Para 7.1, the Law Commission observes that the object and purpose of section 498 A cannot be undermined by exaggerating the potential of its abuse and that its re-evaluation simply on the basis of allegations of abuse is unwarranted³³.

There were widespread protests by women's organisations following the verdict of the Supreme Court in Rajesh Sharma's case³⁴. Noted Indian feminists such as Flavia Agnes openly criticised the judgment, stating that it ignored and even falsified lived experiences of women traumatised by domestic violence³⁵.

In 2018, a three-judge bench of the Supreme Court struck down the part of the verdict that said that a District or Sessions Judge could pass an order to quash an FIR or complaint against the accused if a settlement is reached³⁶. The Court pointed out that only the High Court had powers to do so³⁷. Relying on section 482 of the Code of Criminal Procedure, the Supreme Court also reiterated that section 498-A is not a compoundable offence and so, the question of "settling" the case after a criminal proceeding has been initiated or a case registered, does not arise, without the parties filing a petition under section 482 of Cr.P.C. Only after such petition is filed, the High Court and not subordinate courts, may quash the FIR/complaint³⁸. Further, the Supreme Court also pointed out that Family Welfare Committees were extra-judicial bodies that could not be allowed to perform the functions of the court or the police and therefore, the creation of those committees was stayed by this judgment³⁹.

³³Law Commission Report, supra note 2.

³⁴The Invisible Lawyers Team, Women to the Supreme Court: "We are not liars", protest against dilution of section 498 A, THE LEAFLET (Sep. 9, 2022, 9:00 AM) <https://theleaflet.in/women-to-the-supreme-court-we-are-not-liars-protest-against-dilution-of-section-498a/>.

³⁵Flavia Agnes, Are Women liars? Supreme Court's Judgment Ignores Lived Reality of Married Women, EPW52, 53 (2017).

³⁶Social Action Forum Manav Adhikar and anr. V Union of India (2018) 10 SCC 433

³⁷Code of Criminal Procedure, 1973, S. 482, No. 2, Acts of Parliament, 1973(India).

³⁸Social Action Forum, supra note 36.

³⁹Id.



In the same judgment, the Supreme Court once again reiterated that the police must have respect for individual dignity and work within the confines of constitutionalism and refrain from making arbitrary arrests, while dealing with men accused of violence under section 498-A⁴⁰.

In order to do so, the Court said, the police must apply the guidelines laid down in the cases of Arnesh Kumar⁴¹, DK Basu⁴², Joginder Kumar⁴³ and Lalita Kumari⁴⁴. While in DK Basu's case, procedural guidelines were laid down to restrain the police from abusing their powers, in the case of Joginder Kumar, the Supreme Court had clearly stated that arrests cannot be made in a routine manner based on mere allegations of the complainant. Before making arrests, the police must ascertain that the complaint is not frivolous and there is justification or necessity to make an arrest⁴⁵.

In Lalita Kumari's case, the Supreme Court had emphasised on the requirement of a preliminary inquiry before the filing of an FIR in certain categories of cases⁴⁶. The text of the judgment made a mention of matrimonial disputes⁴⁷ as one category of such cases⁴⁷. However, it is to be noted that the purpose of making preliminary investigation is only to ascertain truthfulness of the complainant's allegations. In cases where injury is apparent, such as those where the woman is visibly assaulted, the requirement of preliminary investigation may be done away with. Further, a line of demarcation needs to be drawn to distinguish cases of physical/mental abuse from cases of matrimonial dispute as the former are not cases of civil disputes but those of violent criminal conduct.

Concluding Remarks

As the first point of contact for victims in the criminal justice system, the police have a significant role to play and judicial decisions in this area play a significant role in shaping their response to victims. Keeping all verdicts in mind, it will be apt to say that the current stance of the judiciary on police conduct in cases of 498-A is one of abundant caution but not impunity. In cases where serious injury to the life or limb or mental health of the woman aggrieved by matrimonial cruelty is evident, the requirement of preliminary investigation may be done away with. The police are bound to file FIRs in such cases and cannot turn women away, as is evident in many qualitative studies in this area. "Settling" of cases in 498-A, which is a cognizable and non-compoundable offence is not an option for the police as per the latest verdict of the Supreme Court.

It is pertinent to note that despite decades of anti-domestic violence legislations being in existence, even today, several studies rank India very high in the list of countries where women frequently report incidents of family-based violence by their partners⁴⁸. While many studies reveal that domestic violence in Indian homes is not just frequent but also intense, they also simultaneously point out that only a small percentage of such

⁴⁰Social Action Forum, supra note 39.

⁴¹Arnesh Kumar, supra note 25.

⁴²DK Basu v State of W.B. (1997) 1 SCC 416

⁴³Joginder Kumar v State (1994) 4 SCC 260

⁴⁴Lalita Kumari v. Government of Uttar Pradesh and ors. (2014) 2 SCC 1

⁴⁵Id.

⁴⁶Id.

⁴⁷Id.

⁴⁸Editorial Team, Poll Ranks India the World's Most Dangerous Country for Women, THE GUARDIAN [https://www.theguardian.com/global-development/2018/jun/28/poll-ranks-india-most-dangerous-country-for-women-](https://www.theguardian.com/global-development/2018/jun/28/poll-ranks-india-most-dangerous-country-for-women-.).(Sep. 8, 2022, 10:01 PM)

incidents are actually reported to the police⁴⁹. A comparison of data of the National Family Health Survey and the National Crime Records Bureau specifically points towards the problem of under-reporting of cases of domestic violence, revealing thereby that existing records show only a tip of the iceberg.⁵⁰

The problem of violence against women behind closed doors is said to have risen sharply in course of the Covid 19 pandemic, during which many victims were trapped with their abusive partners at home, due to lockdown measures imposed by the government to contain the spread of the novel corona virus⁵¹. In March, 2021, the National Commission for Women reported an unprecedented spike in cases of domestic violence, with the numbers jumping from 2960 in 2019 to 5297 in 2020⁵². Complaints of domestic violence, the NCW reported, now account for about one-fourth of all complaints of crimes against women and the problem that was once just chronic, has now become potentially infectious due to causes that are an inevitable consequence of the pandemic. However, an absolute lack of understanding of what section 498-A connotes, along with a plethora of confusing judicial decisions in this area has led Indian women to the nadir of exploitation in marriages- with very little scope to activate the criminal justice system in their favour. In this context, the beginning of any change in the direction of women's welfare in cases of 498-A can be made only by sensible police response, that is not guided by misconceptions generated by conflicting judicial decisions.

⁴⁹Id.

⁵⁰Payal Seth,Decoding extent to which DV in under reported in India, THE WIRE <https://thewire.in/women/domestic-violence-india-underreported>(Sep. 10, 2022, 11:21 AM)

⁵¹Id.

⁵²PTI, Complaints of domestic violence against women spiked in year of lockdown: NCW Data ,TOI <https://timesofindia.indiatimes.com/india/complaints-of-domestic-violence-against-women-spiked-in-year-of-lockdown-ncw-data/articleshow/81687915.cms>(Sep. 11, 2022, 11:29 AM)