



Changing Pattern In Marriages After 498 A Ipc

Dr. Anuradha Jaidka Panjab University Chandigarh.

Abstract

Many laws have been passed in our country to stop the oppression of women and to get them their rights. One such law is section 498 A. Let us know what is section 498 A and how we can use it. Let us know that this law was passed in 1983. That was a period when cases of violence against women and harassing them for dowry were increasing continuously. In such a situation, this law came into existence in the Indian Penal Code (IPC) after the women's movement, under which women were given the power to demand dowry by their husbands and their relatives for cruelty. Section 498-A was introduced in the IPC in the year 1983, to provide relief from intimidation and intimidation of married women by husband or his relatives. This section will be imposed for cruelty to a woman by her husband or a relative of her husband, and if found guilty, there is a provision of imprisonment for a maximum period of three years and suitable fine for the husband or his relatives. Now if we see that what is meant by the word "brutalism", then we will find that it can be explained and defined very broadly, there are many angles to be seen in it, like any woman.

Keywords: IPC, Section 498 A, Marriage, Women, Dowry, Violence.

Introduction

Cruelty against married women posed some difficulties in prosecuting and proving the accused. This was because, more often than not, women endure their sufferings in silence. Getting independent witnesses is also a difficult task, as the violence of the wife is usually kept out of the public eye within the four walls of the house. Moreover, due to demand of dowry, harassment of women starts if they fail to meet the same. Violence usually occurs in subtler and more discreet forms (for example, mental cruelty), but equally tyrannical, or at times inciting a woman to take her own life.

Section 498A was inserted in the IPC in 1983 by the Criminal Law (Second Amendment) Act, 1983. The object of this section was to prevent a married woman from being harassed by her husband or his relatives and to harass her for the purpose of harassing her for dowry. Prior to 1983, harassment of a wife by her husband or her in-laws was committed by the general provisions of the IPC to deal with assault, injury, complaint or misery. However, the increasing violence against women, especially young, newly married women and bride burning became a matter of concern for everyone. It was felt that the general provisions of the IPC were not sufficient to deal with atrocities against women.

To deal with this problem, it was felt by the Parliament that extensive legislative changes were necessary at three levels:

- Defining the offense of cruelty to women by husbands and relatives of husbands
- To initiate procedures that make investigation mandatory in cases of certain deaths of women
- To bring changes in the Evidence Act which will make the prosecution and conviction of the accused in the cases of violence against women easier.

Accordingly, section 498A and section 304B (dowry murder) were added to the I.P.C. Subsequently, Section 174, CRPC, was amended, which was mandated by the Executive Magistrates in cases of suicide or suspicious deaths of women within seven years of marriage.

Section 113B was added to the Evidence Act, which provided that if it is shown that before the death of a woman she was subjected to cruelty or harassment by any person in respect of a demand for dowry, it shall be deemed that the person who harassed such woman caused the death of the woman.

What is cruelty?

In simple words, cruelty refers to inflicting suffering or inaction towards another person or living being. I can mention criminal law, cruelty punishment, torture, harassment, cruel acts etc. It can also refer to 'inhuman' actions. Most of the time, cruelty becomes evident from the point of such pain and hurt or hurt inflicting on another. Cruelty is clearly a very broad term, and it encompasses a wide variety of meanings. Cruelty can be both violent or physical and even mental or emotional. Section 498A covers both mental and physical cruelty. Read on to know more about what constitutes cruelty under section 498A.

The term harassment or cruelty in a general sense means tormenting a person to him or her through constant interference or intimidation. If such harassment is done with a view to coerce the wife or her relatives to meet any demand of property or valuable security, it constitutes harassment as contemplated by section 498A. Coercion means to persuade or compel a person to do something by means of force or threats.

Physical cruelty and mental cruelty

Physical cruelty occurs when there is an influx of pain upon the physical body. It can be throbbing, burning, physically hurting, punching, biting, twisting, slapping, kneeling, etc. Physical cruelty can be seen with the naked eye in most cases. As the name suggests, physical cruelty is an injury or injury to another. Physical cruelty is easily identifiable, such as bruises or fractured bones. Any physical violence that endangers or causes injury to life, limb or health.

Mental cruelty can be an act of needless or emotional cruelty by one person to another, including threatening, intimidating, belittling, harassing the other person, name-calling, yelling, etc. Mental cruelty has the same weight as physical cruelty. Mental toughness is more challenging than physical toughness.

Both physical and mental cruelty are covered under Section 498A of the Indian Penal Code. Thus, if the husband or the husband's relatives subject the husband's wife to cruelty, whether physical or mental cruelty which is likely to cause the woman to commit suicide or to cause any grievous hurt or danger to life, limb, or mental or bodily likely to harass the woman with a view to coercing her or her relatives to satisfy an unlawful demand for the health of the woman, or for any property or valuable security.

What is section 498 A?

On an average, a woman dies of dowry-related reasons every hour in the country and there was a significant increase in such cases between 2007 and 2011. The increasing violence against women, especially young, newly married brides, has become a matter of concern for everyone. It was felt that the general provisions of the IPC were not sufficient to deal with atrocities against women. Therefore, section 498A was included in the IPC. In such a situation, this law was considered as a security cover for the daughters harassed for dowry. But gradually people increased its use. Simultaneously it was also seen that people also started misusing this law. It started working as a weapon to intimidate the people of the groom's side. In such a situation, changes were made in this law from time to time.

According to section 498 A, if a married woman has been subjected to cruelty or torturing her husband or their relatives in any mental, physical or other way, then a case is registered under this section on the complaint of that woman.

*It has been kept in the category of serious offence.

Offences are divided into cognizable and non-cognizable. By law the police are duty bound to register and investigate a cognizable offence.

*Non-bailable: This means that in a complaint filed under section 498A, the magistrate has the power to refuse bail and send a person to judicial or police custody.

Why is section 498A required in India?

There are many reasons for this in our country, for which a law like section 498 A is required in India. Section 498 A empowers women, and helps them to fight back in ugly and painful situations of cruelty by husband and his relatives for demand of dowry. Some of the main reasons for the need for such a law are given below:

Out of 10, at least 9 cases of cruelty after marriage are related to dowry. This law protects women from unchecked and illegal dowry demands and protections related to any cruelty.

In order to protect women and to punish not only husbands but also relatives from the social evil of dowry (and/or cruelty), laws like section 498 A are needed.

Women in marriage are subjected to not only physical torture but in most cases, mental torture. Section 498A is required to protect women from such mental cruelty. Such sections help a woman to get justice and save herself from such tortures.

FIR under section 498 A

If a woman has been subjected to cruelty, whether physical, mental, or sexual, she should not be ashamed to approach the authorities. The authorities should be approached to seek justice, punish the wrongdoers, and protect the victim from any future harm from such husband or relatives of the husband. The first step other than hiring a good criminal lawyer is F.A. I. R. have to enter. The police should be immediately contacted who will register an FIR for the victim.

If the victim is badly hurt, or physical or written complaint / F. I. R. If you are not in a position to go to the police station to register yourself, any other friend or relative can also approach the police. However, if it is not advisable to physically visit the police station, then a call should be made on the number 100 i.e. the police helpline.

What is the provision of punishment?

The offense under section 498A has been considered serious. If found guilty, there is a provision of imprisonment of up to three years. On the other hand, if the married woman dies during 7 years of marriage and unless it is proved that the cause of death has happened, then it is assumed that the girl has died in a suspicious condition. In this case, the police register a case under section 498A /302/304B of IPC. And a question also arises that if the death of the woman took place within seven years of marriage, then the court would assume that the death was due to dowry death. In such a situation, these sections will be imposed.

Section 113-A of the Indian Evidence Act; Regarding dowry death and section 498A

Section 113-A, "presumption as to dowry murder" explains the action of:

"When the question is whether any person has committed dowry death of a woman and it is shown that before her death such woman has committed cruelty or harassment by such person, or in connection with any demand for dowry. The court shall presume that such person had caused the dowry death.

Explanation.— For the purposes of this section, "dowry death" shall have the same meaning as in section 304 B of the Indian Penal Code."

Section 113-A of the Indian Evidence Act was invoked to combat the threat of death and act of dowry. It was incorporated in The Criminal Law Amendment Act, 1983 (Act 46 of 1983), by the same Act to remove the presumption of abortion by suicide by a married woman. The main object of Indian Penal Code Section 498 A is to protect a woman who is being harassed by her husband or relatives of the husband.

Section 113 - Presumption as to dowry death, in a question whether any person has committed dowry death, it is shown that before her death, such woman was subjected to cruelty or harassment by such person or to any relation in relation to. Dowry demand, it shall be held by the Courts that such person had actually caused the dowry death.

Under this provision, cruelty and harassment are deemed to be within section 498 A of the I.P.C.

Constitutional Validity of Section 498 A

The constitutional validity of Section 498 A has been questioned on the following grounds:

It has been grossly abused by married women by conducting heinous and illegal criminal proceedings to harass their husbands, in-laws, and relatives,

It has become an easy instrument in the hands of the police and other agencies to rescue persons with the threat of arrest, that-

Investigative agencies and courts begin by assuming that the accused persons are guilty. It has been exploited by women and their relatives

However, the Supreme Court rejected these arguments and upheld the constitutional validity of Section 498A. It held that the possibility of misuse of the statutory provision is not a provision of law in excess of its powers beyond those provided under the Constitution. In such cases, the action and section cannot be weak. The court also said that it should be enforced, unless the contrary is proved, that the administration and application of the provision of law is not done with an evil eye but with an unequal hand.

Misuse of Section 498 A

Considering the immense power conferred on women by the enforcement of Section 498A, many women have misused this provision to obtain undue benefits from their husbands and in-laws. Section 498 A has become a weapon in the hands of women trying to take revenge on their husbands and also used to blackmail family members.

The increasing number of women due to decrease in the number of men in 498 A false cases has become a well-recognized phenomenon and social evil, which has also been acknowledged by the Hon'ble Supreme Court of India. The apex court has referred to this malpractice of misuse of section 498A as 'legal terrorism'. The misuse of Section 498A is all

the more as it does not just affect the husband, but often elderly parents, distant relatives are all wrongly implicated and face immense hardship through the criminal justice system.

The alarming number of false cases being witnessed today also jeopardizes the very purpose of this provision, which is the protection of women in legitimate cases of cruelty. Educated women today realize the immense power available to them under this provision, because with a single complaint, a woman can put her husband and his relatives behind bars as the offense under section 498 A is cognizable and non-bailable. It is also often a difficult task to defend an allegation under this provision, as the word of the woman is often held in high position and it becomes difficult to counter the narrative created by the woman in her complaint. Once a complaint is filed, a woman can compel her husband and his relatives to give in to their demands, divorce, higher alimony, or outright extortion. This is to ensure justice in legitimate cases of cruelty.

Scope of relief

According to the 2015 report, the police investigated one lakh 12 thousand 107 cases under 498 A including the outstanding cases of previous years and found the case to be false in 7458 cases. That is, out of the number of cases investigated by the police in 2015, only 6.65 were found to be false. From this it can be estimated that how helpful this law is for women. These sections carry a sentence of less than seven years, in which the Supreme Court has barred the direct arrest of the accused party, they have given both the parties an opportunity to settle the matter under the first conciliation agreement.

Conclusion

Although Indian laws against dowry have been in effect for decades, they have been criticized for being largely ineffective. Despite the efforts of the Government of India, the practice of dowry death and murder continues uncontrollably in many parts of India and has raised concerns of enforcement. It is criticized by women's groups that India's dowry harassment laws are ineffective because the laws are too vague, the police and courts do not enforce the laws and social customs keep women submissive and submissive, giving them a subordinate status in society.

Tolerating domestic violence is like encouraging it. Your sister should complain against her in-laws to the police and before that you should clearly tell your in-laws that they are losing behavior, then you will complain to the police. This will give great relief to your sister, the complaint is under section 498A, in which all the family members involved in this work may have to go to jail. The accused under section 498A are not committing serial misconduct of law or criminals or terrorists, but still, they are treated as hardcore criminals. Most of the cases under section 498A arise out of misunderstanding or ego conflict at home, and are filed to settle individual scores.

Reference

- Ingale, S. (2014). Victimology of Interpersonal violence: A comprehensive Outlook of Legislative Policies in India. VICTIMOLOGY, 2(2).
- Agnes, F. (2015). Section 498A, marital rape and adverse propaganda. Economic and Political Weekly, 12-15.
- Hoge, S. K. (2016). Marriage and Mental Health. Indian J Psychiatry, 58(2), S230.
- Srivastava, S. (2019). Marital Captivity under the Era of Globalisation: A Sociological Analysis.
- Ratti, D. CRIME AGAINST WOMeN IN INDIA: eMeRGING TReNDS. International Journal of Society and Humanities, 33.
- Khan, N. A. (2013). Women Security and Legal Safeguards in India. Journal of Business Management & Social Sciences Research (JBM&SSR), 2(4).
- Nigam, S. (2016). Is Domestic Violence a Lesser Crime? Countering the Backlash against Section 498A, IPC. Nigam S (2017) Is Domestic Violence A Lesser Crime.
- Singh, A. P., & Joarder, S. Women empowerment and Gender Sensitization: Facts and Realities.
- Dassi, A. (2015). Domestic Violence: A Challenge to Policing and Social work Practice. EDITORIAL BOARD, 59.
- Khora, S. (2014). 'Final Reports' under Sec-498A and the SC/ST Atrocities Act. Economic and Political Weekly, 17-20.
- Yadav, M. (2017). Domestic violence, 498A and judiciary: Shifting dimensions. VIDHIGYA: The Journal of Legal Awareness, 12(2), 1-10.
- Bhowate, S., & Asawa, S. (2015). Sec 498A IPC Will a Boon Turn in Legal Terrorism? A. Forensic Medicine & Toxicology, 9(1), 144.