BLOGS

# IPC Notes: Offences Related to Marriage (Part 2)

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## Introduction

Marriage is a sacred union between two individuals, symbolizing love, commitment, and legal recognition of their relationship. However, there are instances where people engage in fraudulent practices, deceiving others by staging marriage ceremonies without genuinely intending to enter into a lawful marriage.

This deceitful act undermines the sanctity of marriage, deceives families and friends, and can have severe legal consequences. In this article, we will analyse the provisions, their ingredients and relevant case laws.

In the ***last article***, we analyzed Sections 493-495 of the Indian Penal Code and tried to understand the offences related to marriage. In this article, we'll take a look at offences listed in Section 496, 497, 498 and 498A of the IPC.

## Section 496 of the Indian Penal Code

The act of fraudulently going through a marriage ceremony without a lawful marriage refers to the situation where individuals intentionally deceive others into believing they are legally married when, in fact, they have not fulfilled the necessary legal requirements. This offence is detailed in Section 496. This may involve a fabricated marriage ceremony or falsification of documents related to the marriage.

## Ingredients of Section 496

***A fraudulent marriage ceremony typically involves several key ingredients, including:***

1. Intent to deceive: The individuals involved must have the intention to deceive others, such as family, friends, or authorities, into believing they are legally married.
2. Fabricated ceremony: They may organize a marriage ceremony complete with witnesses, a marriage officiant, and other traditional elements, giving the appearance of a legitimate marriage.
3. Falsification of documents: This may include forging marriage certificates, altering dates, or misrepresenting the identities of the individuals involved.

## Section 497 of the Indian Penal Code

Adultery is an expression of infidelity within a committed relationship and represents a breach of trust and fidelity. It is contained in Section 497. The motivations behind adultery can vary widely, ranging from dissatisfaction within the marriage, personal insecurities, or simply succumbing to temptation. The party indulging in adultery is to be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such cases, the wife is not punished as an abettor.

## Ingredients of Adultery

***There are several key components that define adultery.***

1. Firstly, it requires the presence of a married individual who willingly engages in a romantic or sexual relationship with someone other than their spouse.
2. Secondly, it necessitates secrecy and deceit, as adulterous affairs are typically kept hidden from the betrayed partner.

Consider the story of Mohit and Sara. They have been married for over a decade, and while their marriage started on a strong foundation, the passage of time has left them disconnected and unsatisfied. Mohit, feeling neglected and unappreciated, finds solace in the companionship of a colleague named Leela. As they spend more time together, their emotional bond deepens, ultimately leading to a physical relationship.

In this scenario, Mohit's actions represent the act of adultery. By engaging in a secret affair with Leela, he violates the trust and commitment he made to his wife, Sara. The emotional intimacy between Mohit and Leela further exacerbates the betrayal, as it demonstrates the erosion of the emotional connection that should be exclusive to Mohit and Sara's marriage.

## Judgements on Adultery

***Yusuf Aziz V. State of Bombay*:** In 1951, this was the first time the adultery law was challenged. It was challenged on the grounds that it violated Fundamental Rights under Articles 14 and 15 of the Constitution.

The petitioners claimed that Section 497 of the IPC discriminated against males by not penalizing women who were involved in an adulterous relationship. According to Article 15(3) of the Indian Constitution, Section 497 of the IPC is constitutionally valid.

The court stated that the basis for enacting adultery legislation was that in most circumstances, the woman is the victim and thus cannot be a culprit. Although the court recognized women as victims in situations of adultery, they did not provide them the opportunity to submit a complaint.

In the case of ***Joseph Shine v. Union of India***, 2018, the validity of Section 497 of the IPC was questioned again. In this case, the petitioners argued that criminal law should be employed only as a last resort for societal control, not to check or govern individual morality or immorality. Centre, on the other hand, claimed that adultery is a deliberate conduct that undermines sexual faithfulness and the integrity of marriage.

The Supreme Court ruled that Section 497 of the IPC is unconstitutional and held it to be invalid. The clause, according to the Court, was founded on gender stereotypes and so violated Article 14 (equal protection of laws) and Article 15 (non-discrimination on the basis of gender) of the Indian Constitution.

The Court overturned Section 198 (2) of the CrPC, which permitted a husband to accuse the guy with whom his wife had committed adultery. The Court determined that for adultery to be considered a criminal act, one of the spouses must commit suicide within the course of the events. In such a circumstance, the other spouse would be held accountable under Section 306 of the IPC for abatement to suicide.

## Section 498 of the Indian Penal Code

Section 498 of the Indian Penal Code deals with the offence of enticing or taking away or detaining a married woman with criminal intent. This section aims to protect the institution of marriage and safeguard the rights and autonomy of married women.

## Ingredients of Section 498

***The key ingredients of Section 498 inlcude:***

Firstly, enticing refers to luring or alluring a married woman by using deceptive means, such as false promises, flattery, or coercion. It involves intentionally captivating her attention and inciting her to leave her matrimonial home.

Secondly, taking away refers to physically removing the married woman from her lawful place of residence without her consent or against her will. This act can involve force, abduction, or even manipulating her emotions to persuade her to leave.

Lastly, detaining a married woman implies holding her against her will or without her consent, often with the intention to cause harm, extract a ransom, or force her into an illicit relationship. It includes depriving her of her freedom and exercising control over her movements.

## Section 498A of the Indian Penal Code

Section 498A is a criminal provision in the IPC that aims to protect women from cruelty and harassment in their matrimonial homes. It encompasses acts committed by the husband or his relatives that result in physical, mental, or emotional harm to the wife. The section recognizes cruelty as any willful conduct that drives the woman to commit suicide or causes her to suffer grave injury or endanger her life, limb, or mental health.

## Ingredients of Section 498A

***To establish an offense under Section 498A, the following elements must be present:***

1. The accused must be the husband of the woman or a relative of the husband.
2. The accused must have subjected the woman to cruelty.
3. The cruelty should be of such a nature that it causes her mental or physical harm.

4. The cruelty must have occurred in connection with demands for dowry or any form of harassment related to dowry.

Suppose Radhika, a married woman, starts experiencing persistent emotional abuse, insults, and physical violence at the hands of her husband, Rohit, and his family. They demand dowry from her parents and threaten her with dire consequences if their demands are not met. Radhika's in-laws also subject her to constant harassment, pressuring her to bring more money and assets from her parents.

In this scenario, Radhika can file a complaint under Section 498A against her husband, Rohit, and his family members. The cruelty inflicted upon her in the form of physical violence, emotional abuse, and harassment related to dowry falls within the purview of this section. If the allegations are proven, the accused could face criminal prosecution, which may lead to punishment, including imprisonment.

## Cases on Section 498A

People have alleged that this section has been misused several times. One of the most important ones in this regard is ***Arnesh Kumar v. State of Bihar***. The wife claimed that dowry was expected from her and that she was evicted from the marriage home for failing to meet such demands. The spouse sought anticipatory bail, which was denied. As a result, the spouse petitioned the Supreme Court for special leave.

The Court recognized that Section 498A of the IPC, which is a cognizable and non-bailable offense, is often misused as a weapon rather than a shield by dissatisfied wives. This misuse results in the harassment and arrest of husbands and their relatives, even without a prima facie case, causing distressing situations where elderly grandparents are arrested while bedridden.

Consequently, the Court established guidelines that police officers must adhere to when making arrests under Section 498A of the IPC or Section 4 of the Dowry Prohibition Act, 1961. These guidelines emphasize the need for the police officer to have reasonable satisfaction regarding the authenticity of the allegations before making an arrest. Furthermore, the Court urged magistrates to exercise caution and avoid authorizing detentions in a casual or mechanical manner.

## Conclusion

Finally, offences linked to marriage cover a wide spectrum of criminal activities that take place within the institution of marriage. These offences frequently include one spouse's maltreatment, cruelty, or harassment by the other or their family. Sections of the Indian Penal Code, such as 498A, and the Dowry Prohibition Act, attempt to safeguard persons from such offences and offer legal remedies for victims.

However, striking a balance between securing justice for victims and protecting against false allegations or exploitation of these measures is critical. The proper execution of legislation, in conjunction with a fair and impartial legal system, is critical in resolving and avoiding marriage-related offences, hence encouraging healthy and respectful relationships within the institution of marriage.