BLOGS

# Misuse of Section 498A of IPC: Cruelty by Husband or Relative of Husband

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**Edit TABLE OF CONTENTS Introduction What does Section 498A of IPC state? Essential Components of Section 498A of IPC Understanding Cruelty under Section 498A of IPC Misuse of Section 498A Conclusion**

## Introduction

Domestic violence, a pervasive social issue, continues to plague countless households across India, transcending boundaries of class, caste, religion, and geography. We have often heard of cases where a married woman was subjected to cruelty by her husband and in-laws. To address the issue of domestic violence and uphold the rights of women in marital relationships, we have certain laws and provisions in place. One such law, which is perhaps one of the most talked about provisions of our Indian Penal Code is Section 498A. Section 498A of the Indian Penal Code was added in the year 1983 to provide adequate punishment for any cruelty inflicted on the married woman by her husband and his relatives.

## What does Section 498A of IPC state?

The offence under Section 498A is **both cognizable as well as non-bailable**.

**Section 498A reads as follows:**

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

**Explanation**—For the purposes of this section, "cruelty means"—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

On breaking down the section in details, a few terms stand out such as the scope of the term “relative of the husband” as well as “cruelty”. The Explanation to Section 498A talks about the definition of cruelty.

## Essential Components of Section 498A of IPC

**The essential ingredients to attract punishment under Section 498A are as follows:**

1. A woman must be married.

2. She must be subjected to cruelty.

3. Cruelty must be of the nature of:

(i) any willful conduct as was likely to drive such woman:
a. to commit suicide;
b. cause grave injury or danger to her life, limb, either mental or physical;

(ii) harassment of such woman,

(1) with a view to coerce her to meet unlawful demand for property or valuable security,

(2) or on account of failure of such woman or by any of her relation to meet the unlawful demand,

(iii) woman was subjected to such cruelty by: (1) husband of that woman, or (2) any relative of the husband.

## Understanding Cruelty under Section 498A of IPC

In order to better understand the definition and scope of cruelty, let us look at what comprises cruelty under the section:

**Willful Conduct:** The explanation under Section 498A IPC encompasses any willful conduct that is of such a nature as to likely drive the woman to commit suicide or cause grave injury or danger to her life, limb, or health, whether mental or physical. This implies that any deliberate action or behavior by the husband or his relatives that leads to severe mental or physical harm to the

woman falls under the purview of cruelty.

**Physical Harm or Endangerment:** Cruelty includes acts or behavior that result in physical harm or endangerment to the woman's life or limb. This may involve physical violence, assault, or any action that poses a direct threat to the woman's safety and well-being. The provision recognizes that physical abuse is a form of cruelty that warrants legal intervention and protection.

**Mental or Emotional Harm:** Cruelty under Section 498A IPC extends beyond physical harm to encompass mental or emotional harm inflicted upon the woman. This includes verbal abuse, emotional manipulation, intimidation, humiliation, or any other conduct that causes psychological trauma or distress to the woman. The provision acknowledges the devastating impact of mental abuse on the victim's mental health and overall quality of life.

**Harassment with Unlawful Demands:** The explanation also considers harassment of the woman with a view to coercing her or her relatives to meet any unlawful demand for property or valuable security as cruelty. This involves subjecting the woman to pressure, intimidation, or threats in order to extract dowry or other material benefits unlawfully. The provision aims to address the nexus between dowry-related demands and domestic violence, highlighting the exploitative nature of such practices.

**Failure to Meet Unlawful Demands:** Additionally, cruelty includes harassment of the woman on account of her or her relatives' failure to meet such unlawful demands. This implies that the mere refusal or inability to fulfill dowry demands or other material expectations can lead to harassment and abuse by the husband or his relatives, constituting cruelty under the law.

The case of ***Kans Raj v. State of Punjab*** is a landmark judgment delivered by the Supreme Court of India in 2000. This case dealt with the interpretation of the term "cruelty" under Section 498A of the Indian Penal Code. In this case, the Supreme Court expanded the scope of cruelty under Section 498A IPC to include various forms of abuse within marital relationships, such as physical violence, verbal abuse, emotional manipulation, and harassment. The judgment emphasized that mental cruelty is as grave as physical cruelty and can have severe and long-lasting effects on the victim's well-being. The court recognized the need to address mental cruelty within the framework of Section 498A IPC.

## Misuse of Section 498A

The Malimath Committee, officially known as the "Committee on Reforms of Criminal Justice System," was constituted under the chairmanship of Justice V.S. Malimath, a former Chief Justice of the Karnataka and Kerala High Courts. The primary objective of the committee was to review the existing criminal justice system in India and propose reforms to make it more efficient, effective, and responsive to the needs of society.

The Malimath Committee addressed the issue of misuse of Section 498A in its **report** by acknowledging the concerns raised by various stakeholders. In its **report**, the Malimath Committee recommended certain measures to address the issue of misuse of Section 498A IPC while ensuring that its intended purpose of protecting women from domestic violence is not compromised.

**Some of the key recommendations made by the committee regarding Section 498A include:**

1. The committee recommended introducing stringent safeguards to prevent the arbitrary arrest of the accused in cases filed under Section 498A IPC. It emphasized the importance of conducting thorough investigations before making arrests and ensuring that due process is followed at every stage of the legal proceedings.
2. The committee suggested promoting alternative dispute resolution mechanisms such as mediation and counseling to resolve matrimonial disputes amicably and prevent the filing of false complaints under Section 498A IPC.
3. The Committee also recommended that counseling within the Women's Cell should conducted by professional and trained family counselors. This aims to screen out frivolous cases at the outset, thus reserving the invocation of Section 498A of IPC for rare instances.
4. The committee suggested introducing provisions to penalize individuals found to be filing false complaints under Section 498A IPC with the intention of harassing the accused. It recommended imposing deterrent penalties on those who misuse the provision for ulterior motives.

As early as 2009, the **Central Government had taken note** of the issues of misusing Section 498A to settle personal scores. The misuse of Section 498A of the Indian Penal Code (IPC) has been a topic of significant debate and concern in India. While the provision was enacted with the noble intention of protecting married women from cruelty and harassment, there have been instances where it has been misused for various reasons.

The law intended to provide protection to women against cruelty and harassment has often been used as leverage in marital disputes, property battles and custody disputes or used as a means to settle personal scores and exact revenge. While instances of misuse of Section 498A IPC are concerning, it is essential to strike a balance between protecting the rights of women and preventing the wrongful victimization of the accused.

The Bhajan Lal Guidelines (laid down in ***State of Haryana v. Bhajan Lal***), while originally formulated in the context of misuse of official power, have been cited in subsequent cases involving allegations of misuse of Section 498A IPC and other provisions related to dowry harassment and domestic violence. These guidelines serve as a framework for courts to assess the validity of complaints and prevent their misuse for ulterior motives.

**Some key principles laid down in the Bhajan Lal Guidelines include:**

**Filing of First Information Report (FIR):** The guidelines emphasize that an FIR should not be registered in cases lacking prima facie evidence of the commission of a cognizable offense. Frivolous complaints or complaints filed with a malicious intent should not lead to the registration of an FIR.

**Preliminary Investigation:** Before registering an FIR, the police are advised to conduct a preliminary inquiry to ascertain the veracity of the complaint and assess whether a prima facie case exists.

**Scope of Section 482 of the Code of Criminal Procedure (CrPC):** The guidelines empower the High Courts under Section 482 of the CrPC to quash FIRs or criminal proceedings in cases where they find that the allegations are frivolous, vexatious, or an abuse of the legal process.

**Judicial Scrutiny:** Courts are urged to exercise judicial scrutiny and discretion in cases where complaints are filed with the intention of settling personal scores, extracting undue advantage, or harassing the accused.

In the case of ***Arnesh Kumar v. State of Bihar***, the Supreme Court expressed concern over the misuse of Section 498A IPC and issued guidelines to prevent arbitrary arrests. The Court highlighted the need for fair and impartial investigation before making arrests under this provision to prevent innocent individuals from being falsely implicated.

In the case of ***Sushil Sharma v. Union of India***, the appellant challenged the constitutional validity of Section 498A IPC, contending that it was being misused by disgruntled wives to harass

and blackmail their husbands and in-laws. The Supreme Court upheld the constitutional validity of Section 498A IPC and dismissed the appellant's challenge. The court acknowledged the existence of misuse and abuse of the provision but emphasized that such instances should not undermine its essential purpose of protecting married women from cruelty and harassment.

## Conclusion

Section 498A IPC holds significant importance in safeguarding the rights of married women and addressing domestic violence. Serving as a legal shield against cruelty and harassment within marriages, it also contributes to advancing gender equality and empowering women. While ongoing efforts aim to prevent misuse and ensure fair application, the primary objective of Section 498A remains the protection of vulnerable women and the fostering of a society free from domestic violence.