

Misuse of Gender-Specific Laws in India: A Critical Analysis of the Legal Framework and Its Impact on Men and Their Families

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Abstract- India's gender-specific legal framework was conceived as a shield against centuries of patriarchal oppression and systemic violence against women. Laws such as Section 498A of the Indian Penal Code (IPC), the Protection of Women from Domestic Violence Act, 2005, the Dowry Prohibition Act, 1961, and the stringent rape provisions under Section 375 IPC were enacted with the noble objective of protecting women. However, over the decades, a growing body of judicial opinion, empirical data, and legal scholarship has raised serious concerns about the selective misuse of these provisions. This paper undertakes a critical analysis of the gender-specific legal framework in India, examining its historical rationale, documented patterns of misuse, the consequent impact on men and their families, relevant judicial pronouncements, and the urgent need for balanced legal reform. The paper also presents the author's considered opinion on how India must navigate the fine line between protecting genuine victims and preventing the weaponization of law.

Keywords: Section 498A, Dowry Laws, Gender-Neutral Laws, Misuse of Law, Men's Rights, POCSO, False Accusations, Bharatiya Nyaya Sanhita

I. INTRODUCTION

The relationship between law and gender in India is complex, historically layered, and politically charged. The Indian legal system, shaped by colonial legacies and post-independence constitutional mandates, has progressively enacted legislation aimed at protecting women from violence, harassment, and discrimination. This legislative impulse was not without justification: dowry deaths, domestic violence, and sexual assault were and remain grave social realities.¹

Yet, as with any powerful legal instrument, the question of misuse inevitably arises. In recent years, India has witnessed a surge in public discourse around the weaponization of gender-specific laws particularly in the context of matrimonial disputes. High-profile

cases, judicial observations, and statistical data from the National Crime Records Bureau (NCRB) have all contributed to a growing recognition that certain laws, while necessary, are susceptible to abuse.²

The issue gained renewed national attention in December 2024, when Atul Subhash, a Bengaluru-based software engineer, died by suicide, leaving behind a detailed video message blaming his wife and the ongoing divorce proceedings for his mental anguish.³ His case reignited a broader debate about whether India's gender-specific laws discriminate against men, and whether the legal system adequately protects innocent individuals, particularly men and their families, from false and malicious complaints.

This paper seeks to examine this debate through a rigorous legal lens, analyzing the statutory framework, judicial interpretations, empirical data, and the socio-legal consequences of misuse, while remaining cognizant of the genuine and persistent threat of violence against women in India.

II. HISTORICAL BACKGROUND AND LEGISLATIVE INTENT

2.1 The Genesis of Gender-Specific Laws

India's gender-specific criminal laws emerged largely in response to documented social crises. The most significant of these is Section 498A of the IPC, introduced through the Criminal Law (Second Amendment) Act, 1983. The provision was enacted to protect married women from cruelty inflicted by their husbands and in-laws, specifically addressing mental and physical harassment related to dowry demands.⁴

The law was born in the ashes of tragedy. The phenomenon of "bride burning", the murder of young brides in their marital homes, often disguised as kitchen accidents, had become a ghastly epidemic by

the late 1970s and early 1980s. Activists like Satya Rani Chadha, whose daughter Shashi Bala was killed while expecting a child, forced a moral reckoning upon the legislature.⁵

Section 304B (Dowry Death) was simultaneously introduced, prescribing imprisonment of no less than seven years, extendable to life, for the husband or relatives of a woman who dies within seven years of marriage under suspicious circumstances involving dowry.⁶ The Protection of Women from Domestic Violence Act, 2005, further broadened the protective net, recognizing physical, emotional, sexual, and economic abuse within domestic relationships.

2.2 The Protective Rationale

The rationale for gender-specificity in these laws was not arbitrary. It was rooted in the recognition that women in India occupy a structurally vulnerable position within marriage, family, and society. The National Family Health Survey-5 revealed that one in three Indian women experiences physical or sexual violence in her lifetime.⁷ The NCRB reported that 19 women were killed every day for dowry in 2022.⁸ These are not abstract statistics they represent a lived reality that demanded legislative intervention.

The Supreme Court of India, in *Sushil Kumar Sharma v. Union of India* (2005), while acknowledging the potential for misuse of Section 498A, upheld its constitutionality, affirming that its primary purpose was to prevent dowry deaths and protect women from cruelty.⁹

III. THE LEGAL FRAMEWORK: KEY PROVISIONS

3.1 Section 498A IPC / Section 85-86 BNS

Section 498A of the IPC, now retained as Sections 85 and 86 of the *Bharatiya Nyaya Sanhita* (BNS), 2023, criminalizes cruelty by a husband or his relatives against a married woman.¹⁰ The offence is cognizable, non-bailable, and non-compoundable, meaning that once an FIR is registered, the police are empowered to arrest without a warrant, and the complainant cannot withdraw the case without court permission.¹¹

Under the law, the offence of dowry harassment does not require an investigation before arrest. The law

grants the police the power to arrest at the request of the complainant, with the victim's testimony being treated as primary evidence.¹² This design, while intended to provide immediate relief to victims, has also created a structural vulnerability to abuse.

3.2 Section 375 IPC / Rape Laws under BNS

Section 375 of the IPC defined rape exclusively as an act committed by a man against a woman. Under the BNS, the offense of rape continues to be gender-specific, recognizing only men as perpetrators and women as victims.¹³ The 172nd Report of the Law Commission (2000) had recommended replacing the offence of rape with a gender-neutral offense of "sexual assault," but this recommendation was not adopted.¹⁴

The stringent nature of rape laws carrying penalties up to life imprisonment or death in aggravated cases, while necessary to deter genuine offenders, also creates a fertile ground for false accusations. The burden of proof, in practice, often shifts to the accused to disprove allegations, making it difficult for innocent men to establish their innocence.¹⁵

3.3 The POCSO Act, 2012

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted to protect children from sexual abuse. While its protective purpose is unimpeachable, the Act has also been misused in some instances. False allegations under this Act can have devastating consequences for the accused, even if they are eventually acquitted.¹⁶ Courts have documented cases where the POCSO Act was weaponized for personal vendettas, including instances where women used their own children to frame false charges against men.¹⁷

3.4 The Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005, provides civil remedies to women in domestic relationships. However, the Act is exclusively available to women, leaving men with no equivalent statutory protection against domestic violence perpetrated by female partners.¹⁸ This legislative gap has been the subject of increasing criticism, particularly in light of data suggesting that a

significant number of men also experience domestic abuse.

IV. PATTERNS OF MISUSE: DATA AND JUDICIAL OBSERVATIONS

4.1 Statistical Evidence

The NCRB data presents a sobering picture. In 2012, nearly 200,000 people were arrested on unproven dowry allegations, with only 15% of the accused ultimately convicted.¹⁹ According to information received from the High Courts, as of 2010, 3,40,555 cases under Section 498A were pending trial in various courts, with as many as 9,38,809 accused implicated in these cases.²⁰

With respect to rape cases, according to NCRB data, approximately 74% of rape cases under Section 376 IPC result in the acquittal of the accused.²¹ In 2020, over 13,000 rape cases were reported, but the conviction rate remained at 27%.²² According to NCRB reports, there were 28,046 registered cases of rape in 2020, of which 3,375 cases were dismissed by police as being false.²³

It must, however, be noted that acquittal does not necessarily imply that a complaint was false. Low conviction rates may also reflect inadequate investigation, prosecutorial inefficiency, and the difficulty of proving offenses that occur in private settings.²⁴ As legal scholars have noted, within the wide spectrum of cases, false complaints may constitute a portion, but disaggregated data is necessary to determine the true dimension of the issue.²⁵

4.2 Judicial Observations on Misuse

The judiciary has not been silent on the issue of misuse. In *Arnesh Kumar v. State of Bihar* (2014), the Supreme Court observed that the cognizable and non-bailable nature of Section 498A had given it a “doubtful position of pride” among dowry-related provisions, and laid down guidelines requiring magistrates to apply their minds before authorizing arrests.²⁶

In *Sushil Kumar Sharma v. Union of India* (2005), the Supreme Court, while upholding the constitutionality of Section 498A, famously warned: “By misuse of the

provision a new legal terrorism can be unleashed.”²⁷ The Court acknowledged that the provision was “intended to be used as a shield and not an assassin’s weapon” and that “merely because the provision is declared constitutional, it does not give licence to unscrupulous persons to wreak personal vendetta.”²⁸

In October 2024, the Supreme Court overturned the conviction of a man under Sections 498A and 34 of the IPC, ruling that there was “no scintilla of evidence” linking him to the alleged cruelty, and criticized the indiscriminate implication of family members in Section 498A cases.²⁹ The bench emphasized that courts must be vigilant in identifying instances of over-implication to prevent innocent individuals from enduring unwarranted legal consequences.³⁰

On February 7, 2025, the Supreme Court quashed criminal charges of cruelty, dowry demand, and domestic violence against certain family members of an accused husband, emphasizing the dangers of invoking criminal law in domestic disputes without specific allegations or credible evidence.³¹

In *Sham Singh v. State of Haryana* (AIR 2018 SCC 3976), the court asserted: “It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well.”³²

4.3 Documented Cases of Misuse

Several documented cases illustrate the phenomenon of misuse. In one case, Bhawna Sharma, arrested by the Jaipur Police, allegedly filed 14 false rape cases against men over eight years, exploiting legal provisions designed to safeguard women.³³ A special POCSO Court in Ajmer documented a case where a woman used her own daughter to frame false charges against two men, taking revenge for a case filed against her husband.³⁴ The court observed that when such false cases in sensitive matters like rape are filed, even genuine cases are viewed with suspicion.³⁵

In 2021, a sextortion racket was exposed in Madhya Pradesh where rape accusations were used as instruments of extortion against wealthy men.³⁶ These cases, while not representative of the majority,

demonstrate that the weaponization of gender-specific laws is a real and documented phenomenon.

V. IMPACT ON MEN AND THEIR FAMILIES

5.1 Social Stigma and Reputational Harm

The impact of false accusations on men is profound and far-reaching. Accused individuals often face social ostracism and isolation, even if they are eventually cleared of the charges.³⁷ The stigma of being accused of a sexual offense or dowry harassment can haunt them for life. As trial courts have observed, false rape accusations leave a “permanent negative impact” on the accused’s mental health and reputation.³⁸

In India, a person who is accused of rape loses his reputation and standing in society long before he is convicted.³⁹ The asymmetry is stark: while accusers enjoy statutory anonymity, the identities of accused persons remain public, a disparity that has been highlighted in debates on false allegations.⁴⁰

5.2 Mental Health Consequences

The psychological toll of false accusations is severe. Research demonstrates that being wrongly accused constitutes an attack on a person’s personal integrity, causing emotional harm and risking the development of PTSD and depression.⁴¹ The tragic case of Atul Subhash, the Bengaluru techie who died by suicide in December 2024 after leaving a detailed account of his legal ordeal, brought this human cost into sharp national focus.⁴²

Statistically, the male suicide crisis in India is alarming. According to NCRB data, the male-to-female suicide ratio in 2021 was 72.5:27.4.⁴³ On average, over the eight years from 2015 to 2022, nearly 1,01,188 men died by suicide each year, compared to 43,314 women.⁴⁴ According to a petition filed in the Supreme Court in 2023, citing NCRB data, 81,063 married men ended their lives in 2021, compared to 28,680 married women.⁴⁵

5.3 Economic Consequences and Prolonged Litigation

Once an FIR is filed under Section 498A, it becomes a tool in the hands of the police to harass the husband and all his relatives named in the FIR, without even a

preliminary investigation.⁴⁶ The accused face potential suspension or loss of employment even before conviction.⁴⁷ The financial burden of prolonged litigation, combined with the social stigma, creates a devastating cycle from which many accused men struggle to recover.

The Committee on Reforms of the Criminal Justice System, headed by Justice V.S. Malimath (2003), noted that the non-bailable and non-compoundable nature of Section 498A forecloses any possibility of reconciliation and that “the husband and his family may be immediately arrested and there may be a suspension or loss of job.”⁴⁸

5.4 Absence of Legal Protection for Male Victims

A critical gap in India’s legal framework is the absence of any equivalent protection for men who are victims of domestic violence. The Domestic Violence Act, 2005, exclusively protects women, leaving men with no statutory recourse against physical, emotional, or economic abuse by female partners.⁴⁹ Violence against men by female partners, including physical violence, emotional abuse, and threats of false cases, remains legally unaddressed.⁵⁰

Under Section 375 IPC and its BNS equivalent, only men can be perpetrators and women can be victims of rape. The law does not recognize men and transgender persons as rape victims.⁵¹ Section 377 of the IPC, the only provision available to male victims of sexual assault, does not classify male-on-male sexual assault as rape, resulting in a significant protection deficit.⁵²

VI. THE COUNTER-NARRATIVE: WHY THESE LAWS REMAIN NECESSARY

A balanced analysis demands acknowledgement of the counter-narrative. The misuse of gender-specific laws, while real, must be contextualised against the persistent reality of violence against women in India. The NCRB reported that 19 women were killed every day for dowry in 2022.⁵³ The National Family Health Survey-5 found that one in three Indian women experiences physical or sexual violence in her lifetime.⁵⁴

Legal scholars and women’s rights advocates correctly point out that acquittal rates cannot be simplistically

equated with false complaints. Low conviction rates in 498A cases may reflect out-of-court settlements, the complainant's loss of interest in proceedings, inadequate investigation, and the inherent difficulty of proving mental cruelty.⁵⁵ The 243rd Law Commission Report (2012) reiterated that all laws are open to misuse, and the existence of misuse does not invalidate the law.⁵⁶

Furthermore, as legal scholar Srimati Basu has noted, one major reason for low conviction rates is the difficulty in providing clear evidence, especially in cases of mental cruelty.⁵⁷ Convictions are more likely in cases involving additional charges such as murder or dowry deaths, which distorts the overall conviction statistics.

Veteran advocate Indira Jaising has argued that India's deeper legal failure lies not in the misuse of Section 498A, but in the absence of a comprehensive matrimonial law that ensures fair settlements, equitable division of property, and no-fault divorces.⁵⁸ When women who leave abusive marriages face destitution, the use of criminal law as a bargaining tool becomes understandable, if not justifiable.

VII. JUDICIAL REFORMS AND LEGISLATIVE RESPONSES

7.1 Supreme Court Guidelines

The Supreme Court has attempted to address the misuse of gender-specific laws through a series of guidelines. In *Arnesh Kumar v. State of Bihar* (2014), the Court directed that magistrates must apply their minds before authorizing arrests under Section 498A, requiring police to first issue a notice under Section 41A CrPC rather than proceeding with automatic arrest.⁵⁹

In *Rajesh Sharma & Ors v. State of Uttar Pradesh* (2017), the Court mandated the formation of Family Welfare Committees in every district to investigate dowry harassment cases before arrest.⁶⁰ This directive was subsequently withdrawn following criticism from women's rights activists, who argued it legitimized the stereotype that women fabricate stories of violence.⁶¹

7.2 The Bharatiya Nyaya Sanhita, 2023

With the introduction of the Bharatiya Nyaya Sanhita (BNS), 2023, Section 498A of the IPC has been retained with minor modifications as Sections 85 and 86 of the BNS.⁶² The Supreme Court has previously criticized this verbatim adoption, calling for legislative amendments to reflect earlier recommendations made in *Preeti Gupta v. State of Jharkhand*.⁶³ The BNS thus represents a missed legislative opportunity to incorporate meaningful safeguards against misuse.

7.3 Calls for Gender-Neutral Laws

There is growing judicial and academic consensus that legal reforms should acknowledge that men can also be victims of domestic violence, harassment, and false accusations, and that laws should protect both men and women equally.⁶⁴ The 172nd Law Commission Report (2000) had recommended gender-neutral sexual assault laws. Efforts must be made to sensitize judges, legal professionals, and police to recognize and challenge unconscious biases through training programs on gender stereotypes.⁶⁵

VIII. THE AUTHOR'S OPINION

Having examined the legal framework, the data, and the judicial landscape, this author holds the following considered views:

First, the misuse of gender-specific laws in India is a real, documented, and serious problem that demands urgent legal attention. The data from the NCRB, the observations of the Supreme Court, and the documented cases of extortion and false complaints collectively establish that these laws, however well-intentioned, have been weaponized in a significant number of cases. The human cost of this weaponization, measured in destroyed reputations, broken families, financial ruin, and lost lives, cannot be dismissed as peripheral.

Second, acknowledging misuse does not mean abandoning protection. The author firmly holds that laws protecting women from dowry harassment, domestic violence, and sexual assault are not merely necessary; they are constitutionally imperative. The reality of violence against women in India remains deeply troubling, and any legal reform must be

calibrated to ensure that genuine victims are not silenced or further victimized.

Third, the current legal framework is structurally imbalanced in its treatment of men. The complete exclusion of men from the protection of the Domestic Violence Act, the gender-specific nature of rape laws, and the non-bailable, non-compoundable character of Section 498A without adequate pre-arrest safeguards create a system where innocent men and their families are uniquely vulnerable to abuse. This imbalance is incompatible with the constitutional guarantee of equality under Article 14 of the Constitution of India.

Fourth, the solution lies not in weakening women's protections but in strengthening systemic safeguards. Mandatory preliminary investigations before arrests under Section 498A, the establishment of a National Commission for Men, the enactment of gender-neutral domestic violence legislation, stricter penalties for provably false complaints, and the anonymization of accused persons until conviction are all reforms that can be implemented without undermining the protective purpose of existing laws.

Fifth, the judiciary must exercise greater vigilance against the indiscriminate implication of family members in matrimonial disputes. As the Supreme Court has repeatedly observed, the criminal law is not an instrument for settling personal scores, and courts must resist the temptation to treat every complaint as gospel truth, irrespective of the gender of the complainant.

In conclusion, true justice must be gender-blind in its application, even as it remains gender-sensitive in its design. A legal system that protects women from oppression while leaving men defenceless against false accusations is not just; it is merely a system that has traded one form of injustice for another.

IX. CONCLUSION

The misuse of gender-specific laws in India represents one of the most complex challenges facing the Indian legal system today. The laws in question were born of genuine social necessity and continue to serve a vital protective function. Yet, their structural design, particularly the non-bailable, non-compoundable nature of Section 498A and the absence of mandatory

preliminary investigation, has created conditions ripe for abuse.

The data is clear: tens of thousands of men and their families are implicated in cases that ultimately result in acquittal, often after years of social stigma, financial hardship, and emotional trauma. The male suicide crisis, while multifactorial, cannot be entirely divorced from the pressures of prolonged and often weaponized matrimonial litigation.

The path forward requires legislative courage: the enactment of gender-neutral domestic violence protections, mandatory pre-arrest scrutiny in matrimonial cases, robust penalties for false complaints, and the establishment of institutional mechanisms to address the grievances of male victims. India must strive for a legal system that is not merely protective of one gender but genuinely just for all.

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