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Protection against Matrimonial Cruelty under Section 498-A of Indian Penal Code:

Shield or Weapon

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Abstract

According to Section 498-A of Indian Penal Court (IPC), “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. The offence is cognizable, non-compoundable and non-bailable.” This provision has been made to protect female for domestic violence due to dowry (the durable goods, cash, and real or movable property that the bride's family gives to the bridegroom, his parents, or his relatives as a condition of the marriage). In India 24,771 dowry deaths have been reported in last three years, according to the National Crime Record Bureau.

It is surprising to learn that although, this provision was introduced in IPC for a good cause but now it is being blatantly misused by some females to harass their husband and his relatives. In many cases, this has become a new mode of blackmailing, harassment, divorce and revenge. There are myriad instances where the police have arrested elderly parents, unmarried sisters and even pregnant sister-in-laws, without any investigation due to which they have to suffer mental stress, humiliation and agony. In a few cases, the accused husbands or their family members have also committed suicide due to humiliation.

The existing legal provisions mandate that there should be an instant arrest as a result of such complaints, but recently Supreme Court in Arnesh Kumar case passed a landmark judgment that there should be no immediate arrest without investigation. This is merely a preliminary step to check this emerging menace, but there is a long way to go.

This paper discusses the affects of misuse of the provisions of section 498-A by some females in today's scenario who are using this as a weapon rather than a shield resulting in the present pathetic condition of the husband and his relatives. The paper attempts to propose with the help of case laws and statistics that strict guidelines should be issued to check the increasing misuse of 498A.

Keywords: Cruelty, Dowry, guidelines, Law, Misuse.