

## **Supreme Court and High Court Cases highlighting Misuse of 498a**

1. **Supreme Court of India on July 19, 2005** in Sushil Kumar Sharma Vs. Union of India (UOI) and Ors, JT 2005 (6) SC 266 maintains "... many instances have come to light where the complaints are not bonafide and have been filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignominy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery"..... "by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not an assassin's weapon".
2. **Supreme Court of India on July 11th, 2006** in Manjula Vs. KR Mahesh ([2006] RD-SC 390) mentions "...There is another angle involved. The evil design to harass the in-laws over petty things by making accusations of dowry demand and torture. In such cases, the vital question again is whether laws which are really dynamic instruments fashioned by society for the purpose of achieving human relations by elimination of social tensions and conflicts have achieved the intended objectives or are being used as weapons of an assassin to harass and humiliate others instead of being used as a shield against injustice".
3. **Supreme Court of India on February 21<sup>st</sup>, 2008** in Som Mittal Vs. Govt. of Karnataka observed the following regarding section 498A – "... often false FIRs are filed e.g. under Section 498A IPC, Section 3/4 Dowry Prohibition Act etc. Often aged grandmothers, uncles, aunts, unmarried sisters etc. are implicated in such cases, even though they may have nothing to do with the offence. Sometimes unmarried girls have to go to jail, and this may affect their chances of marriage".
4. **Supreme Court of India on May 27<sup>th</sup>, 2008** in Porselvi Vs. A.R. Chandrashekar Parthiban & Ors, appeal (crl.) 967 of 2008, observes: "... indisputably the parties had been living separately for more than ten years. How then a case under Section 498A of the Indian Penal Code can be said to have made out and that too at such a distant point of time is the question, particularly in view of the bar of limitation as contained in Section 468 of the Code of Criminal Procedure. Even otherwise it is unbelievable that the appellant was really harassed by her husband or her in-laws..... a criminal prosecution shall not lie. It was initiated mala fide. Thus, it is allowed to continue, the same shall be an abuse of the process of court."
5. **Supreme Court of India on November 11<sup>th</sup>, 2010** in Sunil Kumar Sambhudayal Gupta & Ors vs State Of Maharashtra, appeal (crl.) 891 of 2004, observes:"... thus, the allegations made by the complainant party remained unnatural and improbable... It is a clear cut case of gross abuse of the dowry laws.
6. **Supreme Court of India on August 13<sup>th</sup>, 2010** in Preeti Gupta & Anr. vs State Of Jharkhand & Anr. In SLP (Crl.) No.4684 of 2009, observes: " ... Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is

high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law.”

7. **Andhra Pradesh High Court on July 9<sup>th</sup>, 2002** in Saritha Vs Ramachandra AAO No. 1039 of 2001, observes: “During hearing, we came to know that the appellant filed a criminal case against the respondent and his entire family under Section 498-A IPC. From the conduct of the appellant we have no hesitation to hold that the appellant being at fault wants to misuse the process of law and harass the respondent and his family members for the sin of marrying her. We never expected that women would be of such a character in this country.” .....”The court would like to go on record that for noting that educated women are approaching the courts for divorce and resorting to proceedings against in-laws under section 498a IPC, implicating not only the husbands but also their family members whether in India or Abroad. This is nothing but misuse of the beneficial provision intended to save the women from unscrupulous husbands. It has taken a reverse trend now. In some cases this kind of actions is coming as a formidable hurdle in the reconciliation efforts made by either well meaning people or the courts and the sanctity attached to the marriage in Hindu Religion and the statutory mandate that the courts try to save the marriage through conciliatory efforts till last, are being buried neck-deep. It is for the law commission and the parliament either to continue that provision (section 498a IPC) in the same form or to make that offense non cognizable and bailable so that ill-educated women of this country do not misuse the provision to harass innocent people for the sin of contracting marriage with egoistic women. We have no hesitation to hold that if this situation is continued any longer the institution of marriage and the principle one man for women will vanish into their air.
8. **Allahbad High Court, Lucknow Bench on January 10<sup>th</sup> 2005**, in Writ Petition MB 528 of 2005 states "... The common experience shows that most of the cases of differences and dissensions between married couples result only in dowry demand by the husband and by all his family members. The provisions of the Act are being callously misused by the wives and their parents with different kinds of stories. ....Draft a qualitative and capturing or a pathetic story of dowry victimization and harass the husband' has become the routine of warring couples. As said above, the husband and wife relationship may become strained on not one but on various issues as enumerated above, the allegation of demand of dowry is the eventual result in ninety nine percent of the hundred cases.
9. **Andhra Pradesh High Court on November 22nd 2007**, in Criminal Petition No. 6642 of 2007, Kamireddy Mangamma and others Vs. State of Andhra Pradesh states “...Before parting with the petition, I feel it desirable to observe that there is rampant misuse of S.498-A IPC. False complaints are given against kith-and-kin of the husband, including the married sisters and their husbands; unmarried sisters and brothers and married brothers and their wives. There are instances where even young children, aged below ten years, were also implicated in the offences of this nature. My experience, while sitting in matrimonial Bench revealed that several families are ruined;

marriages have been irretrievably broken down and chances of reconciliation of spouses have been spoiled on account of unnecessary complaints and the consequent arrest and remand of the husbands and their kith-and-kin. To discourage this unhealthy practice, it is desirable that anticipatory bail is granted very liberally in all cases of S.498-A IPC, particularly when the petitioner/accused is not the husband of the complainant and when the allegations are not very specific and prima facie do not inspire confidence. Section 498-A IPC is incorporated by the Legislature basically in the interest of women and to safe guard them from harassment. But, it has become somewhat counter productive. In several cases, women are harassed, arrested and humiliated on the complaints given under section 498-A IPC."

10. **Delhi High Court on May 19th 2005**, in Savitri Devi Vs. Ramesh Chand and Ors. observes: "There is growing tendency to come out with inflated and exaggerated allegations roping in each and every relation of the husband and if one of them happens to be of higher status or of vulnerable standing, he or she becomes an easy prey for better bargaining and blackmailing"
11. **Delhi High Court on February 21st 2007**, in Neera Singh Vs. NCT of Delhi and Ors observes: "Now-a-days, it has become a tendency to make vague and omnibus allegations against every member of the family of the husband, involving everybody under Section 498A and 406 of the IPC by making one or the other allegations."
12. **Allahbad High Court on March 5<sup>th</sup> 2004**, in Rajeev Verma And Ors. vs State Of U.P. And Ors. Observes: "The provision however has on occasion become an instrument of misuse. Reports from the subordinate Courts indicate that entire families of the accused, including old women are languishing in jail for days till they are granted bail by the Sessions Courts or the High Court because Magistrates have become fearful of granting bail in these cases because of public outcry even though the case is only punishable with imprisonment up to three years. This on occasion results in the abdication of their powers by the Magistrate before the Police or the complainant...."But in another situation where the man belabours his querulous, quarrelsome wife in a momentary fit of anger, or wrongly vents his frustration on his hapless wife because he has suddenly lost his job or after he has been unfairly reprimanded by his boss, although condemnable, recourse to criminal proceedings may not be desirable."..."In the light of all these observations and the facts and circumstances alluded to in this judgment I think it would be proper to suggest to the Law Commission to consider the appropriateness of making offences under Section 498A IPC compoundable under Section 320 Cr.P.C. although with the permission of Court".