

To

THE COUNCIL OF STATES (RAJYA SABHA)

The petition of Rudolph D'Souza an NRI Professional, native of Udupi, Karnataka & on behalf of other undersigned members of MyNation Hope Foundation – Delhi (Regd).

Sheweth,

1. Marriage is a sacred institution. To a common man, it is a socially and ritually recognized union between spouses that establishes rights and obligations between them, with their children, etc. The institution of marriage carries different connotations under different religions. Traditionally, for the Hindus, it is sacrosanct. Muslims see marriage more as a contract. For the Christians, marriage is a union between a man and a woman as ordained by God, meant to last for the life time. India is a secular Nation and it comprises of persons from many religions/castes.
2. Marriages in India are regulated both by the Personal Laws of the community as well as the specific laws duly enacted on the subject from time to time. The subject 'Marriage and Divorce' falls in the Concurrent List under the Seventh Schedule to the Constitution (Entry 5) and hence both the Union Government and the State Governments possess the power to make laws on this subject.
3. 3. With the overall social progress, the country has experienced over the past half a century, the perception about women in India has undergone a perceptible change. From a simple home maker with little or

no awareness or education, she has moved up in the society to the level of an equal partner with men in almost all walks of life. For a couple of decades now, women are seen working shoulder to shoulder to men which has lent in them some sense of freedom, autonomy and self-dependence in their approach. This big change in the perception of woman has greatly affected the matrix of husband-wife relationship and has given new dimensions to matrimonial disputes. In this backdrop, Parliament of India have enacted a number of laws from time to time for regulating the marriage and divorce in the country and also for the protection of women in the newly emerging scenario.

4. The incidence of matrimonial disputes in the country has been seen moving upwards over the past several years and the trend does not seem to show any signs of control or reversal. But, whatever may be the incidence of matrimonial disputes in the country in terms of numbers, its impact is devastating on the litigating parties, the institution of marriage and the society generally. Matrimonial disputes are telling heavily on the parties to the marriage, their families in terms of time, money and peace of mind.
5. The fortification of women particularly through the initiatives like changes in Criminal Laws in the year 1983 and the enactment against domestic violence of 2005 have no doubt been able to put a curb on the atrocities against women, but, in fact, these protective initiatives of Government in favor of the women have tilted the balance much to the disadvantage of the male community. This has been protested upon vehemently by the male community in the past years but with little relief. The Government probably fears that any dilution in the existing set of laws may weaken the protective cover that has been built around the women over the years.

6. The National Crime Records Bureau (NCRB), the Ministry of Home affairs wing that collates annual data on crime in the country, came out with its figures for 2016 on November 30, 2017. While overall crime in the country has increased by 2.6 percent - from 47,10,676 cases in 2015 to 48,31,515 cognizable crimes in 2016, other worrying trends too have come to light.
7. Most number of crimes are registered against women (especially Old Mother-in-law and sister-in-law) by estranged Daughter-in-law, which is covered under Section 498A and other Indian Penal Code sections, because Daughter-in-law has protection and support from Government, and law is ready to punish more men and women in the name of protecting one Woman i.e. Daughter-in-law.
8. After widespread complaints of the “misuse” of the 498A and section – offences registered under which are non-bailable, a division bench of the Supreme Court had on July 27, 2017 directed that no arrest or action be taken on such complaints without ensuring the veracity of the allegations made by daughter in law and her family members.
9. However, on November 29, 2017 the court said it can’t frame guidelines on how to probe cases of dowry harassment, as this would mean going beyond statutory provisions.
10. Also, contrary to the perception, that “disgruntled wives” file false cases under various Matrimonial disputes, data has found that complaints declared false on similar grounds are far higher in IPC cases such as cheating and kidnapping.

11. Indian Penal Code (IPC) Section 498A was introduced in 1983 with an objective to protect married Indian women from cruelty, including dowry harassment. The offence under this section is cognizable, non-bailable, and non-compoundable with provision to lodge a complaint against the husband or any relative of the husband of that woman. The section reads as hereunder:-

a. "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 liable to fine."

12. The objective of 498A of IPC is to protect married Indian women from cruelty, including dowry harassment. The offence under this section is cognizable, non-bailable, and non-compoundable with provision to lodge a complaint against the husband or any relative of the husband of that woman. The Protection of Women from Domestic Violence Act 2005 provides for the first time in Indian law a definition of "domestic violence". This definition is broad and including not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is a civil law meant primarily for providing protection.

13. The advent of both these laws have tilted the scales too much in favor of the wife and against the husband. This fact has repeatedly been professed by husbands and acknowledged by the courts as well. After widespread complaints of the "misuse" of section 498A IPC, a Division Bench of the Supreme Court had on July 27, 2017 directed that no arrest or action be

taken on such complaints without ensuring the veracity of the allegations. Thereafter, on November 29, 2017 the court went on to say that it can't frame guidelines on how to probe cases of dowry harassment, as this would mean going beyond statutory provisions. On the same lines, the Madras High Court Bench has observed that Protection of Women from Domestic Violence Act, 2005 suffers from inherent flaws which tempt women to misuse their provisions and men to dread being prosecuted under the law without any rhyme or reason.

14. For the past few decades, it is a ground reality that whenever there is a marital discord, and one of the parties to the marriage seeks a legal recourse, the litigation grows wild and out of proportion on a pre-set pattern. For example, if the husband takes the first step and files a case for restitution of conjugal rights or for divorce, the wife in the first place strongly contests the case with all sorts of counter allegations. By way of retaliation, the women side is also seen invariably invoking provisions of the Section 498A of the IPC as also the PWDVA. Apart from this, claims are put up by the parties (generally the wife) before the matrimonial court for maintenance of wife pending continuation of divorce proceedings/ maintenance of wife or children under Section 125 of the Criminal Procedure Code before the Criminal court of appropriate jurisdiction. Besides all this, the wives also tend to invoke through separate criminal proceedings Sections IPC 406 (criminal breach of trust), 307 (Attempt to murder), IPC 312 (Causing miscarriage), IPC 313 (Causing miscarriage without woman's consent), 354 (molestation), 376 (rape) on husband's Father/Brother or any other male relative, and 377 (unnatural sex) on husband to "strengthen" their 498A IPC / PWDVA case. Hereafter called "***Matrimonial disputes.***"

15. Along with 498A IPC and PWDVA, women are now also seen invoking the provisions under Sections IPC 406 (Criminal breach of trust), 307 (Attempt to murder), IPC 312 (Causing miscarriage), IPC 313 (Causing miscarriage without woman's consent), 354 (Molestation), 376 (Rape) on husband's Father/Brother or any other male relative, and 377 (Unnatural sex) of the Indian Penal Code (IPC) on husband and his family members to rope them in and also to "strengthen" their 498A IPC / PWDVA case. These provisions of the Indian Penal Code are being grossly misused & abused by unscrupulous women, who tend to use law as a weapon for ulterior motives, to satisfy their ego & as a vengeance tool to settle the score. In case of 498A, the FIRs get registered merely on the verbal testimony of the unscrupulous Women who do not spare any family member of the husband in FIR including infants, children, bed ridden senior citizens, married/unmarried sister-in-law or brother-in-law, pregnant women relatives, even those staying in far off places, or abroad.

16. Unfortunately, all these Penal Code Sections allow Police / Govt. law enforcement agencies unlimited power to harass the innocent by threatening the entire family of the husband to be put into jail or denial of bail. As these Penal Code Sections do not have any checks & balances and their implementation is at whims & fancies of the ever-obliging Police Department, all this has created massive, irreversible damages & havoc in the age old, traditional, most sacred and stable Indian Family System and has taken thousands of lives of many innocent MEN/Families, since the inception of these draconian laws. There is rapid and steep raise in men committing suicides due to wives harassing hapless and innocent young men than women committing suicides due to dowry harassment.

17.Worldwide around 800,000 people die due to suicide yearly, that's one person every 40 seconds. Of these 1,39,123 (18%) are residents of India. 70% of suicides are by men, and is mostly due to depression because of marital discord, which is responsible for their death. The overall male to female ratio of suicide victims for the year 2019 was about 70:30. This ratio was even worsen compared to year 2018 (68.5: 31.5). Globally, the suicide rate for men is twice than of women, that's 13.9 per 100,000 for men and 6.3 per 100,000 for women •In India, the marital status of suicide victims is observed at 66.7% (92,757 out of 1,39,123) of the suicide victims were married, which shows there is a problem with their marriage and family. As per NCRB 2019 reports, there are two major causes of suicides i.e. 'Family Problems' and 'Illness'. They also reported that Family problems and related issues were behind 32.4 percent of suicides, marriage related problems (5.5%), 70.2 were male and 29.8 females for every 100 suicide deaths. The NCRB collects national-level data from various sources. Almost 68.4 per cent of male victims were married.

18.However what is most shocking to learn that there is no Body (Government or NGO) be it NCRB, NHS, or Ministry of Health & Family Welfare record the exact reasons behind Male suicide. The exact reasons can be Domestic Violence, Abuse by their wives, and Threat of filing false cases or Female partner / wives using women centric laws to Legally Torture husbands / male partners to extort money and settle the score.

19.In 2015, 133,623 suicides in India were reported in India, of which 91,528 (68%) were by men, 42,088 were by women, according to data from National

Crime Records Bureau (NCRB). Of the 86,808 married persons who committed suicides in 2015, 64,534 (74%) were men, 26% women.

YEAR	SUICIDE	
	Married Men	Married Women
2005	52483	28188
2006	55452	29869
2007	57593	30064
2008	57639	30224
2009	58192	31300
2010	61453	31754
2011	62433	32582
2012	63343	31921
2013	64098	29491
2014	59744	27064
2015	64534	28344
2016	60914	27030
2017	62880	26656
2018	64791	27742
2019	66815	25941

Suicide Victims by Sex and Age Group during 2019



• As per data provided by States/UTs.

20. That by a mere verbal testimony of the complainant; FIR is registered; thereby husband, his entire innocent family & distant relatives go through mental trauma, torture & immense harassment. It is a fact that Unscrupulous Women do not spare any family member of the husband in

FIR, that includes Infants, children, bed ridden Senior Citizens, married/unmarried Sister-in-laws or brother-in-law, pregnant women relatives, even those staying in far off places, or abroad, and even dead people.

21. When this provision was enacted, lawmakers had never imagined or foreseen that women would ever stoop so low, and misuse law, that is tilted so much to their favor. There was presumption that women would never destroy their own family by filing FIR under the *Matrimonial disputes*, but over the period such presumption has been totally proven wrong by the ever increasing number of cases filed by wives and the acquittals as evident from the NCRB data and other such credible entities. Hence it is a dire need of the hour, to address this pernicious problem and stop the rampant misuse of these provisions, which was done in good faith.

22. Government of India is also a signatory member of UN- Universal Declaration of Human Rights (UDHR) and Person is innocent until proven Guilty is duly applied under Article 11(1) Whereas under the *Matrimonial disputes* the moment FIR is filed, entire family is presumed to be guilty and treatment meted out by Law enforcement agencies is a worst kind of mental, physical and emotional torture to them, which honorable supreme court, famously said that this is “**LEGAL TERRORISM**”.

23. Why & How Matrimonial disputes are misused? : That the *Matrimonial disputes* law is being misused rampantly by greedy & unscrupulous women and their family members. The number of instances the Matrimonial disputes are misused to harass and extort

money from Husband and in laws is phenomenally more than the instances when the real victim of Domestic Violence actually using these provision to get justice. It is often argued that every law is misused. But it is a fact that no law is misused & abused so extensively as 498A and Domestic violence along with other sections. Further; none of the laws, when it is misused, will put an entire family of the husbands to suffer, which include even innocent infants, children to aged and retired senior citizen, married and unmarried sisters and other men and women relatives to siblings because there is no Punishment for misusing or harassing with these laws nor there is no accountability to Police or Judges.

24. That the abuse of 498A is now a widespread epidemic and has reached every nook and corner of this country and not even towns/villages are left out in this pandemic. Even after SC's Arnesh Kumar (2014) or Rajesh Sharma (2017) Judgment; neither ground situation nor the attitude of police officers have changed. To circumvent SC's caution/guidelines; Women have started filing False Outraging Modesty(IPC 354) Rape(IPC 376) / Unnatural Sex (IPC 377) cases against husband & other male relatives and Attempt to Kill (IPC 307), Causing of Miscarriage, Injuries to Unborn Children (IPC 312-318), Criminal Breach of Trust (IPC 406) on in-laws and Sisters of Husband who are married and staying faraway. These are so serious offenses which are now being filed in casual & routine manner.

25. That the gravity of the situation can be assessed from the fact that there are several cases of dowry deaths, wherein the supposedly 'dead victims' have even come back alive, and several cases where the same women have

repeatedly alleged same charges under this law, in each of their repeat marriages.

26. This law is being misused by women to enable a get-rich-quick-scheme make quick money in short span of time by extorting huge amounts of money from innocent husbands and in laws families. Women, their parents, instigators have used this law to extend threats and hold innocent families to ransom, thereby pressurizing them to accede to unjustified demands with threat of serious consequences, if not agreed;

27. This law is being misused and abused by women to not only alienate the husband from his aged parents and siblings, but also to gain control over his finances and social behavior, including his lifestyle and make him a money extracting puppet dancing to the tunes of the wife and her parents. Growing instances of abusive behaviors towards elders in the families, including parents and senior citizens, are another ramification of its misuse, abuse; separating the husband from his parents has been clearly defined as cruelty by the honorable courts on many occasions.

28. This law is also rampantly misused by those brides and their parents, who conceal true facts about her mental health, premarital affairs/relationships if any and educational level at the time of marriage, thereby adopting fraudulent means to forge the alliance. When these facts are unearthed by the groom and his family, the bride and her family threaten and silence the groom and his family with the threats of filing of these *Matrimonial disputes* against them.

29. This law is being misused as bargaining tools by those women who indulge in Adultery are caught red-handed. When their nefarious acts are exposed they take recourse to misusing this law, thereby deflecting the

needle of crime on innocent husband and his family. This law being an exception in Criminal Law which presumes the accused as guilty until proven innocent; hence the women's word is taken as a gospel of truth. And from there begins the saga of unending trials, tribulations and destruction for an innocent man and his family;

30. The law is being misused to enable divorce so as to revive any pre-marital relationship that the wife may have had as she may have unwillingly given her consent for marriage to satisfy her parents;

31. The law is being misused to deny custody of child/children to the father and his family. In fact several cases abound, where children have been wrongfully deprived of fatherly care and affection through such indiscriminate, rampant misuse of this law; thus even young children lose the loving care and affection of a father in their tender age, which can seriously hamper the mental wellbeing of the traumatized child. Apart from separating children from their Father, these laws are also being used stop Father's from meeting their children, and these innocent children are used as blackmailing tool to get maintenance or forced to agree to their greed. In some cases they even physically harm the little children and share the pictures with the husbands and family members to put mental pressure on them and make them agree to their demands.

32. This law is being misused to inflict sufferings on husband and his family to settle scores and to wreak vengeance, thereby posing a grave threat to the very existence of a peaceful family unit in society. Law is to protect, not to destruct. Law is as much for protecting the innocent as it is to punish the guilty.

33. The language, content and structure of this law has enabled implication of millions of innocent people in false cases. A complaint, without any authenticity and without any weight of evidence, is enough to arrest the husband, in-laws and anyone else named in the complaint, irrespective of whether a crime has occurred or not. This has led to the arrest of lakhs innocent citizens (thousands of families), with many committing suicides as they are unable to bear the indelible social stigma on their honor and reputation.
34. India is the only country in the world where just on the basis of verbal statement of a woman, entire family is put behind bar. That over 85% of acquittals (as per NCRB data) clearly suggest that there is emergency like situation, and this widespread cancer of misuse of Matrimonial disputes in the society, ought to be fixed by Lawmakers by suitably bringing in legislations and penalizing the culprits.
35. **Aftermath Impact:** Family Suffering, Humiliation, Social Stigma & Loss of Livelihood: That once the *Matrimonial disputes* complaint is filed; All relatives, friends, neighbors, acquaintances and other known people immediately cut-off relationship with accused family members who are involved in these false Matrimonial disputes. Once implicated in the *Matrimonial disputes*, it becomes a social taboo which assumes that “all accused are criminals”.
36. Office employees/colleagues, managers or even subordinates stop respecting such people, as soon as they come to know about the *Matrimonial disputes/proceeding* against husbands or his relatives (Male or Female). Their

professional growth such as promotion, salary increment is seriously affected since employers start treating such employees in an extremely biased way.

37.In this immense and cut-throat competitive job market, no company would like to keep any person who is involved in serious criminal cases like the *Matrimonial disputes* thereby denying them their livelihood. Right to livelihood is fundamental right, guaranteed under article 21, which supersedes any other law enacted by parliament. Thereby if Indian Husbands / his relatives lose their job due to criminal proceedings under the *Matrimonial disputes* then their livelihood also gets irreversibly and seriously affected.

38.Husbands who live and work abroad, live in constant fear of losing their jobs i.e. livelihood, frightened of being arrested, horrified that any time their family members in India may get harassed, tortured and arrested.

39.If husbands & their family members are settled abroad/NRIs then their passports are impounded, Lookout Circular (LOC) & Red Corner Notice (RCN) are issued treating them at par with Terrorists.

40.Even innocent Women relatives of husband are seen as perpetrators of crimes against these Legal terrorist wives, and face social bias & are ostracized by Society.

41.If Husband has Younger Male/Female Siblings; their prospect of marriage would be ruined completely.

42.The married life of sisters and aunts also get affected seriously as her in-laws / husband are made to suffer in police cases/courts proceedings without any

fault of theirs and just because woman is happened to be a sister/ aunt of the husband.

43.Role of Police, Their Attitude & Treatment | Shoddy

Investigation & False Charge sheet: That after the *Matrimonial disputes* are filed against husband & his family members; Police or law enforcement agencies would often and invariably terrify, harass, threaten entire family in the name of investigation, instilling fear of losing property, and court cases running for years and bias of law towards women, delayed justice & extort huge sums of money. This has become an organized industry, breeding huge corruption in the law enforcing agencies.

44.That when Police even after knowing that accused husband or his family members are staying in different cities, different states and even different countries/continents, continents and no way related to the matrimonial home or cases, they would deliberately & repeatedly ask them to appear in police station in the name of enquiry / investigation, just to extract huge sums of money.

45.That the moment the *Matrimonial disputes* FIR is filed, in the name of enquiry/investigation husband & entire family will be asked to stand in line holding SLATE and their photographs will be taken from various angles like hardcore criminals /terrorists.

46.That Police without sending any written notice; would either arrest them or call accused over the phone in the guise of enquiry on a Friday/Saturday and then upon visiting, they would detain them or put them in jail, till court grants them bail, only to torture them in the ensuing

24-48 hours, when they are heavily bribed by the complainant (wife and her family members) or to demand huge bribes from the accused.

47. That Police do not investigate such FIRs and sit on it for years and then file charge sheet without any proof/investigation by copying, pasting of FIR content to their charge sheet, even when the husband show all the evidences and proofs of his innocence, which are simply ignored. Same trend is continues in court also, in maintenance and custody cases, all the evidence provided by husband is ignored and whatever women says is taken as a Gospel truth.

48. That as per NCRB data charge sheet rate of 498A is over 93%, and acquittal rate is over 85%, similarly in PWDVA in 2015, over 125558 charge sheeted and conviction rate is only 17.7% clearly shows police department is in connivance with law abuser the women / wives are exploiting this provision to extort, harass, torture & oppress husband & his entire family.

49. No Cruelty Laws for Men: Reverse the above situation where, Wife demands house, car, luxurious items, jewelries etc. & when mental, physical cruelty are inflicted upon MEN by their wives; Men have no remedies under law to file complaint against wife. When such men approach the police, they are made fun of and simply turned away that, they cannot do anything and there is no law for them to act.

50. That Men are presumed to be protectors / care takers of their wives but when Protectors are harassed / tortured under legal provision, it would be impossible for Men to reconcile to live with their estranged wives who have filed false 498A or PWDVA.

51.NCRB Statistics :That the following statistics corroborate the above contention of the petitioner:

NCRB STATISTICS 2011 TO 2018

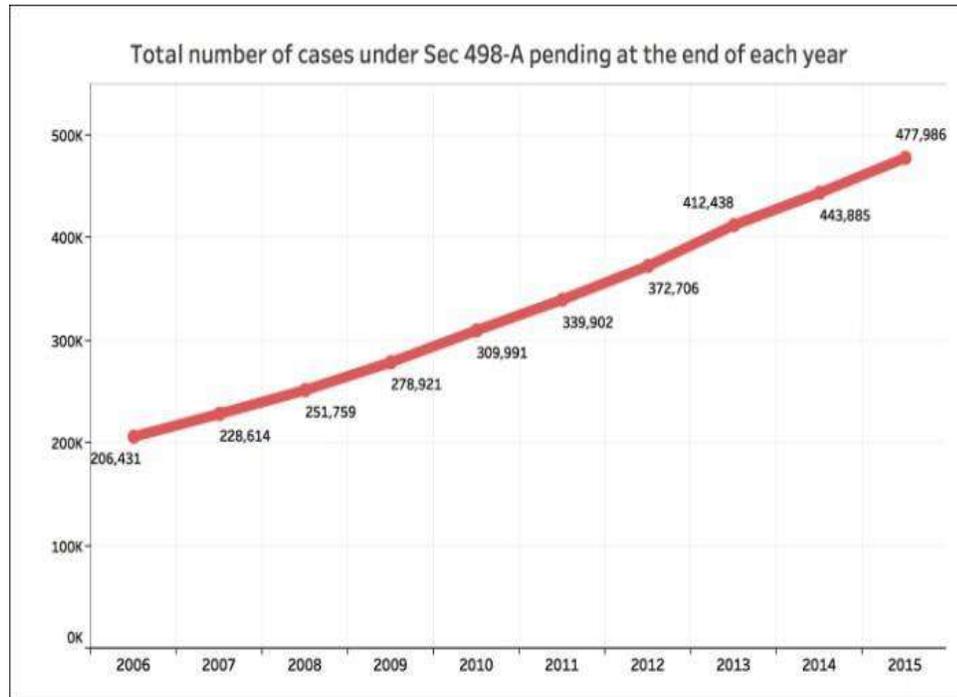
498A

YEAR	CASE REGISTERED	WOMEN ARRESTED	TOTAL ARREST	ACQUITTED	CONVICTION RATE
2011	99135		180701	83580	20.6%
2012	106527		197762	92867	15.0%
2013	118866		222091	97622	15.2%
2014	122877	44218	225648	94765	14.0%
2015	113403	35733	187067	88203	15.7%
2016	110378		198851	82075	10.10%
2017	104551		135340	84679	12.19%
2018	103272		110789	70171	09.93%
2019	125298				
2020	111549				17.0%

PWDVA

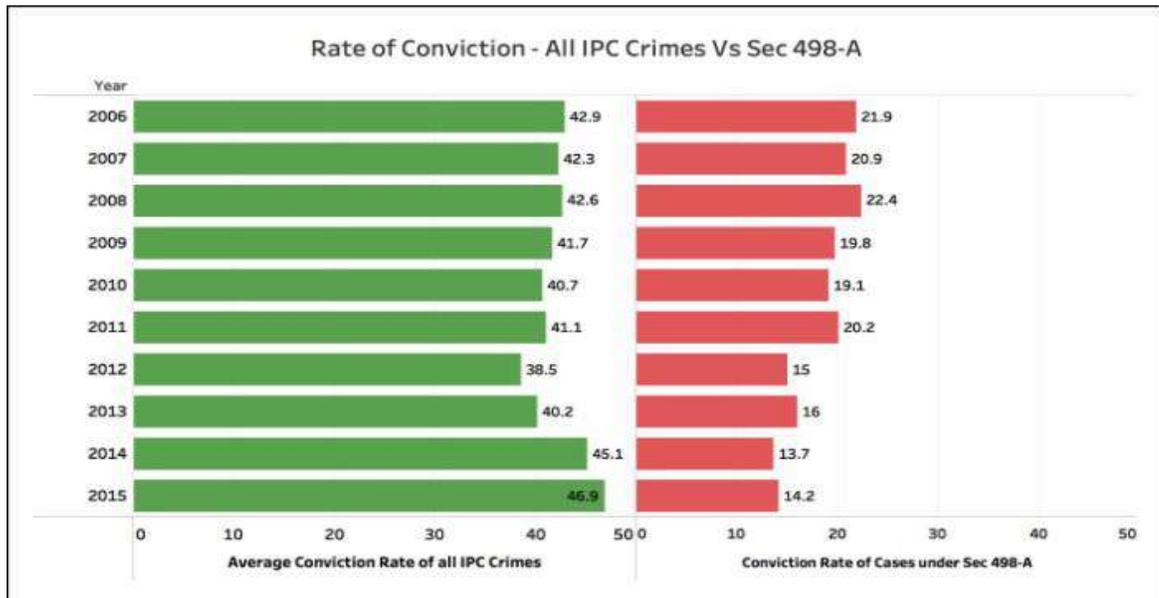
YEAR	CASE REGISTERED	WOMEN ARRESTED	TOTAL ARREST	ACQUITTED	CONVICTION RATE
2011	107753		205279	94757	22.8%
2012	114760		222180	103113	16.7%
2013	126949		245955	108003	16.7%
2014	135492	49912	255107	104805	15.7%
2015	125558	40927	213835	98899	17.7%
2016	96837			18025	
2017	86001				
2018	89097				
2019					
2020					

About Half Million 498A Cases are pending at end of 2015



(Figures compiled from NCRB Data)

Rate of Conviction: All other IPC vs. 498A IPC



Year	Total Cases where trial completed in that year	Convicted	Acquitted	Withdrawn	Total Cases Pending at the end of the year	Conviction Rate of Cases under 498-A in %	Average Conviction Rate of all IPC crimes in %
2006	31261	6857	24404	5679	206431	21.9	42.9
2007	32622	6831	25791	6364	228614	20.9	42.3
2008	34347	7710	26637	7310	251759	22.4	42.6
2009	37323	7380	29943	7111	278921	19.8	41.7
2010	40751	7764	32987	6601	309991	19.1	40.7
2011	40338	8167	32171	7450	339902	20.2	41.1
2012	46054	6916	39138	8162	372706	15	38.5
2013	45423	7258	38165	8218	412438	16	40.2
2014	46853	6425	40428	8922	443885	13.7	45.1
2015	46217	6559	39658	10318	477986	14.2	46.9

Source: NCRB, Government of India.

52. That Acquittal rate in the NCRB statistics shows IPC 498A and PWDVA grossly misused than used and all other claim of Women organizations about no misuse of the Section are blatant lies and are totally baseless. And it is to be seriously noted, that not a single marriage has ever survived after 498A of IPC or PWDVA, which is a serious indicator of disruption and destruction of families and in this process we are destroying homes by making innocent young children a part of family which is broken, if children are not taken care of properly by both parents, studies suggest that such children can, become delinquent or criminals in the future.

53. India's International Image & Credibility having Biased Laws: That 498A IPC and PWDVA has become so infamous for being draconian which has seriously damaged India's reputation, image & credibility for having unfair, biased & anti-men, gender biased laws

54. Many countries had issued warning to their citizens not to marry Indian Women to save themselves from 498A / Dowry laws.

55. 2006: USA issues travel advisory to its citizens traveling to India to be unsafe for US men to marry an Indian woman. An old screenshot of the advisory is as under:

USA

http://travel.state.gov/travel/cis_pa_tw/cis/cis_1139.html

A number of U.S.-citizen men who have come to India to marry Indian nationals have been arrested and charged with crimes related to dowry extraction. Many of the charges stem from the U.S. citizen's inability to provide an immigrant visa for his prospective spouse to travel immediately to the United States. The courts sometimes order the U.S. citizen to pay large sums of money to his spouse in exchange for the dismissal of charges. The courts normally confiscate the American's passport, and he must remain in India until the case has been settled. There are also cases of U.S.-citizen women of Indian descent whose families force them against their will into marriages to Indian nationals.

56. **Government of Canada** still advises its citizens to **beware of Marital Frauds and Misuse of Dowry Prohibition Act**. The website (<http://travel.gc.ca/destinations/india>) says "*used to blackmail men through false allegations of dowry extortion*"

57. **Government of Australia** (Refugee Review Tribunal) issued India Country Advise in 2010, heading "*India – IND37679 – Domestic violence – **False dowries – Male victims – State protection – Police – Corruption***".

58. Heavy Criticism by Supreme Courts, High Courts & Other Authorities: That the misuse of Section 498A of IPC has been acknowledged/condemned by leading authorities;

- a) The Honorable **Supreme Court of India** in *Sushil Kumar Sharma vs. U.O.I (2005)* said that any misuse of this provision of law amounts to unleashing **Legal Terrorism**. It acknowledged that there are growing instances of women filing false charge.

- b)** Even Additional Solicitor General for the Gov. of India admitted In the **Supreme Court of India** in Rajesh Sharma &Ors. vs. State of U.P. & Anr (2017) case that *“There is a growing tendency to abuse the said provision to rope in all the relatives including parents of advanced age, minor children, siblings, grand-parents and uncles on the strength of vague and exaggerated allegations without there being any verifiable evidence of physical or mental harm or injury. At times, this results in harassment and even arrest of innocent family members, including women and senior citizens.”*
- c)** The World Health Organization (WHO), in its Report of India clearly cited Section 498A as one of the major reasons for growing Elder Abuse in India.
- d)** The Law Commission in its 154th Report, the Malimath Committee Report(on Reforms of Criminal Justice System, 2003) and the 111thReport of the Parliamentary Standing Committee on Home Affairs, have all acknowledged that Section 498A is being widely misused;
- e)** The Center for Social Research (India), in a study on implications of Section 498A IPC state that *“educated and independent minded women misuse the section”*.

59. That there is no remedy/provision in this law:

- a. For punishment to people who misuse and abuse this law.

- b. For people who are proved innocent after being falsely implicated under this law; for the indelible stigma that falsely accused people are forced to live with for the rest of their lives;
- c. For the immense financial, social and personal loss borne by the falsely accused;
- d. For resurrecting the lives of falsely accused and maligned people;
- e. For discouraging people from filing false cases.
- f. For punishment to guilty and corrupt law enforcement agencies who connive and collude with complainants to harass and torture and falsely accused;
- g. For preventing the media from maligning and defaming the falsely accused innocent men; and
- h. For citizens to file complaints against women who inflict cruelties and atrocities on them and their family members.

60. That the Supreme Court of India in *Sushil Kumar Sharma vs. U.O.I & others* (JT 2005 (6) SC 266) clearly said that it is for the legislature to find ways on how to deal with misuses of this law as well as on how to wipe out the ignominies suffered during and after the trial by the falsely accused.

61. It is often argued that there are remedies available under existing IPC to punish those who misuse law such as 182 IPC. However, the fact remains that police never initiate 182 despite of knowing the fact that complaint is

false. This can be also corroborated by Charge sheet Filing Rate (> 93%) vis-a-vis conviction rate (<15%) which is lowest among all IPC crimes. Further IPC 182 can be initiated by police and not by the victims who are implicated in false *Matrimonial disputes*. The victims have no remedies left.

62. That Unfortunate stand/view taken by honorable Women & Child Minister that “**All violence are MEN Generated in India**” that itself shows the prejudice and bias against MEN.
63. Petitioner’s Caveat: That is true that under constitution of India under article 15(3); Special provisions / laws can be enacted for women & children. But this law not only violates article 14 & 21 but also creates prejudice within Women Gender class for which this law was enacted. When under the *Matrimonial disputes* it is presumed that woman “young married daughter-in-law” whereas sister-in-law, mother-in-law & other female relatives cannot even take recourse when they are subjected to similar cruelty inflicted by daughter-in-laws.
64. That it is settled principle in the law that “*It is better that ten guilty persons escape than that one innocent suffer*” But under the *Matrimonial disputes* to punish 1 guilty person, 10 innocent are made to suffer. It is therefore to give justice to Woman cannot be at the expense of other MALE Gender. Where even Other Women relatives are also victim of misuse of the *Matrimonial disputes*.
65. Neither Petitioner, undersigned signatories in this petition are denying that there are some women who genuinely suffer due to dowry demands.

But this does not give the license to the government to presume all men are guilty of such conduct as two wrongs do not make a right.

66. All the above statements are not work of fiction they are the real life examples of our 10,000 odd members who are victims of the estranged, cantankerous, and greedy wives, and corrupt law enforcement agencies. To cite an example a Widow approached NCW (National Commission of Women) for help as she was not able to see her was harassed with False 498a IPC against him and his suffering but in case No **8/C0500721/VT/MSH/NCW/2006** dated 03 Feb 2007. NCW replied saying **her case is not coming under their mandate or purview**, that just shows their biased attitude towards Mother in law (parents of husband) terming her not as a Women. This is not just one case, there are plenty of cases where NCW could have made a difference in the lives of Women who approach the commission but they show only their apathy and indifference towards them, and they are in no mood to help other women or even at least guide them. Why is NCW getting crores of Funds in the name of Women? If they don't help or even listen or work towards providing relief to the women who approach the commission.
67. There are plenty of such cases where the 498A section is being misused, I want to quote one last scenario where the wife filed complaint against the brother of the husband who migrated to Australia 5 years before the said crime which is attempt to murder IPC 307 (Case Crime No. 37/2011, u/s 498-A, 307 323, 354, 406, 506, IPC and 3/4 D.P. Act in Mahila Thana, Hazratganj, Lucknow and Charge sheet No. 46/2011 dated 03.08.2011) despite repeated appeals in the court they were rejected now the only option left for accused is to approach Supreme court for the relief.

68. To cite another example a criminal case (Criminal complaint No. Regular Cr. CC No. 317 of 2000 U/s 498(A), 323, 504, and 506 IPC) is pending for the past 18 years before the Honorable Court of Jt. Civil Judge JD & JMFC Vasai, Thane, Maharashtra ; the complainant who filed this case has not attended a single hearing in the court since the beginning, despite repeated appeals for the relief is being denied by the judge and even appeal at Bombay High court (Criminal Writ Petition No. 2820 of 2013) is pending for last 5 years. Why are innocent husbands harassed by the wives, police and the courts? Why Law is not taking suo moto and punishes misuser of the law? Why no action NBW/LOC/RCN on who abused process of law made mockery of law? Accuser absence itself shows Case is False, still why law is turning blind on such cases? Why accused employee lawyer and spend money on this? Who will compensate all money spend on such cases? Why there is no Accountability on Public servant in Matrimonial disputes?
69. Lastly, If any of these *Matrimonial disputes* are true then when money paid out of court, as much as demanded there will be no 498A IPC, No Domestic violence or Rape case, that clearly shows motive behind these False cases, majority of *Matrimonial disputes* being used as Blackmailing tool rather than for seeking relief from marital dispute as none of the marriage survive once marital dispute reach to Police.
70. That the petitioner therefore prays for remedy to mitigate the sufferings of lakhs of Indian citizens, who through this law, have been unceremoniously exposed to the whims and fancies of corrupt, immoral unprincipled section of society, who for their own personal agendas do not hesitate in committing the worst possible crime under law, which is Misuse of Law, **and accordingly petitioner pray that**

- a. That suitable provision to be specifically inserted / amended in the *Matrimonial disputes* so as to make it punishable for whosoever misuses or abuses it, if case is quashed or dismissed.
- b. Empower Criminal courts to take suo- motu cognizance to determine if the complaints filed before it (by party undergoing a matrimonial dispute) were false/frivolous and mandatorily pass appropriate orders on it.
- c. That direction to Polygraph test and request made by husband and his family for such test if they are willing to pay expenses should not be denied by any court to bring out the truth and with the best interest of law. No complainant should deny or refuse to be subjected to Polygraph test / lie detector test if her complaint is true, refusal itself proves that she is telling lies, direction to Polygraph test at the time of charge sheet can filter out all possible false cases, which can help to reduce backlog of cases and save precious time of judiciary which is reeling under pressure of crores of pending cases.
- d. Make provision to compensate that party to the matrimonial dispute which has suffered in terms of loss of time, money, reputation, mental torture, etc. on account of misuse of the laws or by fake and frivolous allegations by the other party in Matrimonial disputes.
- e. That Advisories issued by Law ministry / Home affair etc.; made no impact on misuse of *Matrimonial disputes* so far as latest NCRB

data shows acquittal rate is over 85%. That suitable provision be specifically inserted in the *Matrimonial disputes* so to hold the Police accountable and severely punished for the illegal arrest or call for enquiry without 41A notice and without getting sufficient evidence by the petitioner women.

- f. That the new Misuse Clause to be Inserted in all the *Matrimonial disputes* which may be read as follows for example :

“Whosoever misuses & abuse IPC 498A or PWDVA, in any way, to cause mental, emotional, physical or any type of torture or harassment by filing false cases will be tried by the same court and sentenced to a term of minimum of 10 years and complainant would also pay a fine, equal to Rs.10,00,000/- (Rs. Ten Lakhs) per year to the opposite party for the same period. Further there shall be departmental action against Investigation Officer (IO), Police Inspector (PI) & Superintendent of Police (SP) & Commissioner of Police (CP) or any other such authority to be penalized /demoted /suspended / Removed from job for filing false cases shoddy investigation, incompetency, delaying charge sheet& Other such factors depending on the case / facts & situation”

- g. That If court finds the *Matrimonial disputes* complaint is false, frivolous and concocted, then apart from woman who abuses this provision; all other relatives & family members who have become witness in that trial must be charged under perjury & other suitable laws to prosecute them & also make them liable to compensate the financial loss suffered by the falsely accused in the process.

- h. That the *Matrimonial disputes* complaint is included with false 307 IPC or other sections added without any proof, no court is giving Bail without approaching High Court, to be amended / insert clause so as to make it bailable, non-cognizable and compoundable at lower court.
- i. That without medical certificate/physical injury proof, police officers should not be allowed to register FIR under such serious sections.
- j. That the PWDVA law, be made gender neutral, for protecting the interests of any innocent, be it a man or women.
- k. That time bound trial should be made a statutory requirement under this law, with a 6 month maximum limit specified therein.
- l. That Investigation Officer (IO) must not be allowed to file charge sheet without evidence against accused. Also If IO doesn't file charge sheet within 6 months of filing the *Matrimonial disputes* complaint, FIR has to be made null & void and B Summary to be filed. Subsequently it is to be made mandatory for police to initiate criminal cases under section 182 IPC against women who filed false complaint.
- m. That Indian NRIs implicated in the *Matrimonial disputes* must not be treated like hardcore Terrorists. Necessary laws / rules should be enacted that there should not be any LOC (Lookout circular) & Red Corner Notices (RCN) to be issued in the *Matrimonial disputes* complaint; until & unless complainants win the case or after

proving the case. Further impounding passport by passport authorities is to be barred. Testimonies and statements can be taken on affidavit, duly signed in front of a consular officer or a local notary , be allowed to be considered by the investigating officers and the courts, without disrupting the life and job of NRIs. Also, they should be allowed to testify on Skype/ video conferencing. If there is any irrefutable evidence is provided by the complainant or unearthed by the investigating officers, their passports may be impounded and they may be forced to return to India to face any such enquiry.

- n. That necessary rules / laws to be enacted /amended where police / law enforcement agencies cannot deny police clearance (PC) mechanically in passport applications only because FIR is registered or case is pending.
- o. That if women file multiple the *Matrimonial disputes/complaints* on the same incidents or same cause of actions, then necessary rules/laws may be enacted to punish such women who abuse the process of law.
- p. That new subsection (3) under CRPC 256 may be included for all matrimonial disputes including IPC 498A which may be read as follows

CrPC 256(3): During Trial; If complainant does not appear for 3 consecutive dates even after receiving summons / notice, then magistrate shall dismiss the case & discharge the accused.

- q. As these the *Matrimonial disputes* has been become a Weapon to extort the money and to stop the misuse for such extortion / harassment; alimony / maintenance laws must be amended in which If women has filed false the *Matrimonial disputes* & husband is acquitted, then they are not liable for any maintenance/alimony & right to residence. This will also ensure that only genuine complaints would come to courts it would also reduce the burden of pending / backlog of cases. Also, the maintenance orders must be made effective from the date of conviction and not from the date of filing the complaint. It has been observed that once, the interim maintenance is awarded, the petitioner wives, disappear from attending the courts for years together. This will discourage the young, liberated women who leave the husband's family on flimsy grounds, to settle independently and to avoid taking care of the husband and his aged parents.
- r. That If due to false *Matrimonial disputes* if husband or any of his family member commits suicide then sufficient penalty / punishment clause to be inserted, like 113A under Indian Evidence Act – where “Presumption as to abetment of suicide by a married Man or his any of family member” to be enacted. Further sufficient compensation clause to be added for filing false case.
- s. That If women files the *Matrimonial Case* complaint after 1 year of cause of action / alleged incident; such frivolous complaints must be made time barred mandatorily & FIR should not be registered at all.

- t. That if women files the *Matrimonial Case* complaint in revenge for husband filing for divorce or restitution of conjugal rights petitions, such FIR should not be registered at all.
- u. That Minors / Infants, Sr. citizen Grand parents-in-law must not be included in FIR.
- v. That there should not be any FIR under the *Matrimonial disputes* against bridegroom & his family members before marriage. Similarly there should not be any the *Matrimonial Case* complaint allowed against ex-husband & his relatives after divorce.
- w. All the *Matrimonial Case* complaints to be registered with valid Aadhar Card / Phone number / WhatsApp number / Email details.
- x. All Mediation / Counseling proceedings should be allowed to be recorded by either party. As most of the time IO / Counselor is found to be threatening husband and his family.
- y. In many cases Child visitation / custody is denied to father on the basis that a *Matrimonial Case* is pending, make an amendment in G&W Act, that any parent can visit the child without any court order.
- z. It is unfortunate that government keeps misleading general public about IPC 182 provision; which only allows public servant to file case against false complaint but not to the victim of false cases. If Wife files false cases against husband & husband proves in the court of law there is no IPC provision which enables him to file case against false accuser. Therefore we pray to issue direction to

law commission & law ministry to immediately enact laws to curb the misuse of women centric laws so to punish those who files false cases. As NCRB statistics shows almost 80% acquittal but none of them are charged under section 182 IPC or any other section by Police or court.

- aa. Most of the time all *Matrimonial disputes* are filed when marriage is on the brink of Divorce, or when the Husband files for divorce, Caught her wrong doing [adultery / Extra marital Affair] or stop husband not to get child custody, so they file Dowry cases even when marriage was held decade ago. The Directions must be issued that no dowry demanded claims are accepted after a year of marriage.
- bb. That An accused in *Matrimonial disputes* laws shall be considered a victim of civil loss and must be entitled to civil damages from state upon acquittal, and court fee, Lawyer charges and other expenses for the same shall be waived off / borne by the state or by Accuser.
- cc. That direction to all government entities that No action to be taken on Government employees, and Suspend / Terminate / Departmental enquiry / Action or hold promotion etc. based only on FIR being registered, other than final court order on any Matrimonial case.
- dd. That issue directions to Child welfare committee or court, not to make reason and barricade Father from visiting child just because Matrimonial disputes is pending or FIR filed.

- ee. That issue directions or Amend in all *Matrimonial disputes*, the word Man/Women/Husband/Wife to **SPOUSE**
- ff. Recently Even Bangladesh enacted new law to tackle misuse of dowry law; similar law should be enacted to punish misuser of Law and compensation to victims of Legal terrorism.
- gg. That the Article 14 of The Constitution of India speaks of the Equality before law. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of gender. In the light of the Constitution of India, Article 14, both men and women shall not be differentially treated in the case of harassment too. Along with millions of men, and women, have been the victims of gross violations of law. In order to vindicate their rights, to uphold respect for constitutional of India, and to deter future human rights abuses, the Government of India should consider this Petition, to form A Ministry for Men and his Family.

Date: 10/01/2022