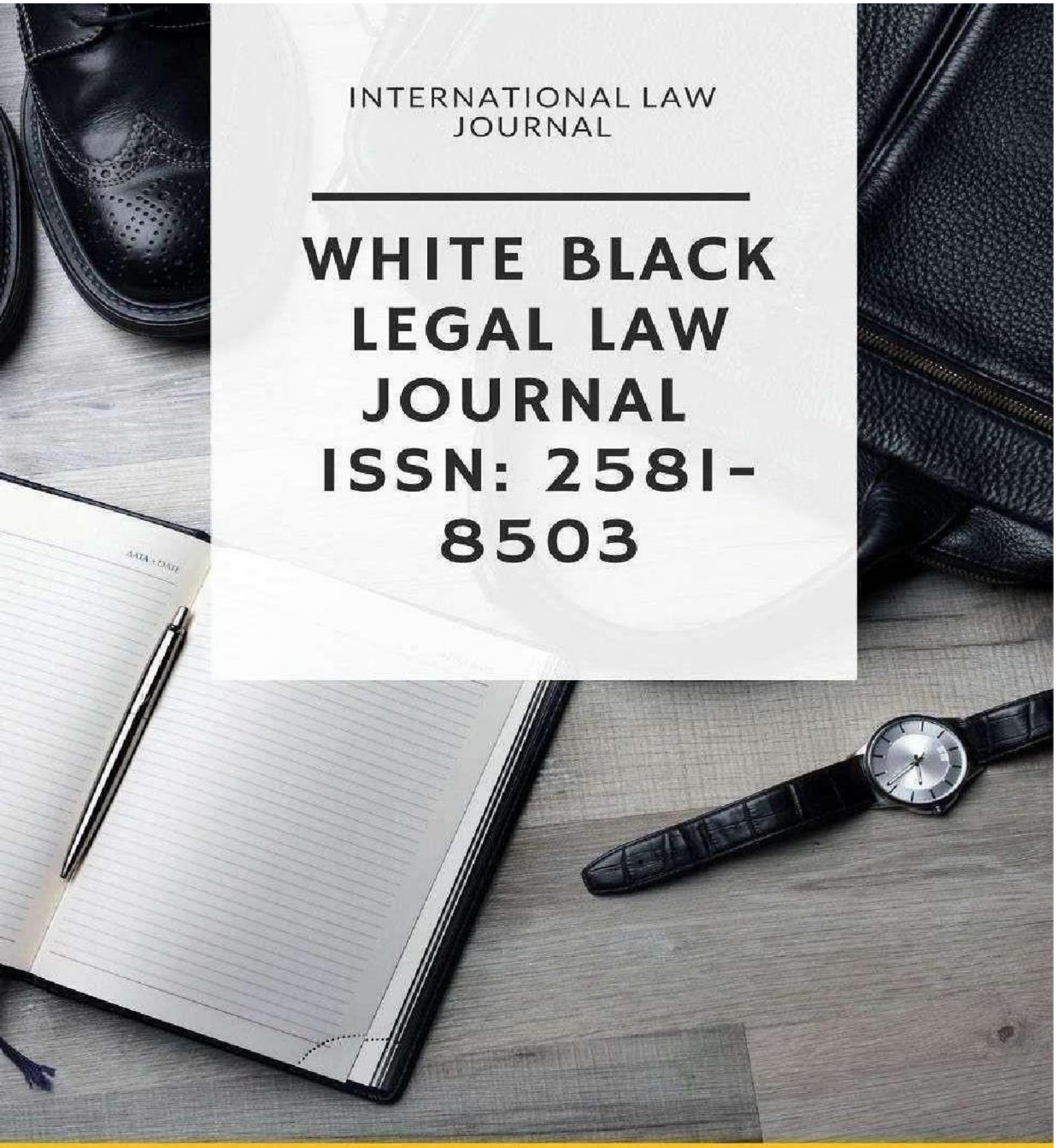


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MISUSE OF MATRIMONIAL LAWS IN INDIA: BALANCING PROTECTION AND PREVENTION OF MISUSE

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Abstract

This paper considers the debate over the alleged misuse of matrimonial laws in India, with particular attention to the offence of cruelty by a husband or his relatives. The offence was originally contained in section 498A of the Indian Penal Code and is now covered by sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023. The paper identifies three different concerns that are often discussed together: complaints that are knowingly false, complaints that make broad allegations against several family members without giving specific details, and the use of criminal proceedings to put pressure on the other spouse during a marital dispute. Using a doctrinal and socio-legal approach, and examining legislation, Supreme Court decisions, committee reports and available crime and health-survey data, the paper argues that procedural safeguards are necessary. However, the available evidence does not justify removing or weakening the protection provided by the law. Better enforcement of arrest safeguards, careful examination of vague allegations, court-supervised settlements and improved official data offer a more balanced approach.

Keywords: section 498A; Bharatiya Nyaya Sanhita; misuse of law; domestic violence; dowry; matrimonial disputes; India

1. Introduction

Section 498A has often been discussed in sharply different ways. For some, it is an important legal protection that allows a married woman to seek State intervention when she faces cruelty at home. For others, it can be misused to involve a husband's parents and other relatives in criminal proceedings on the basis of general allegations. The Supreme Court has recognised

both concerns. In 2005, it referred to the possibility of misuse as "legal terrorism", but it did not strike down the provision.[1] In 2024, the Court also made clear that women who have actually suffered cruelty should not be discouraged from speaking out.[2] These decisions show why the issue needs to be examined from both sides rather than treated as a simple question of whether the law is good or bad.

Section 498A was introduced into the Indian Penal Code, 1860 in 1983. Since 1 July 2024, the corresponding provisions are sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023 (BNS). Other laws may also become relevant when a marriage breaks down or a woman faces abuse. These include the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, maintenance provisions under criminal procedure law and civil remedies under personal laws. In this paper, the expression "matrimonial laws" is used broadly to cover these legal remedies. The main focus, however, is on the criminal offence of cruelty because it is at the centre of the debate about misuse.

The main question considered here is how the law can protect women from cruelty within marriage while also preventing the criminal process from being used to harass a husband or his relatives. The paper makes three arguments. First, misuse can take different forms: a knowingly false complaint, vague or general allegations against several relatives, and the use of criminal proceedings as pressure during a matrimonial dispute. Second, reported cases provide examples of the latter two concerns, but there is no reliable national data showing how many complaints are knowingly false. This uncertainty is important in a country where many incidents of domestic violence are never reported. Third, the response should focus on fair procedures, including proper reasons for arrest, examination of specific allegations, court-supervised settlements and better collection of data. New screening bodies should not be created without a clear legal basis.

The paper follows a human-centred approach to the legal issues. It considers what court decisions, committee reports and statistical records reveal about the people affected by the law, as well as the legal rules themselves. There are limits to what the available material can establish. No national public database records, for every complaint, whether it was found to be false, withdrawn, settled or simply not proved in court. It is therefore not possible to state the exact scale of misuse. The discussion relies on legislation, reported judicial decisions and

[1] *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281.

[2] *Dara Lakshmi Narayana & Ors. v. State of Telangana & Anr.*, 2024 INSC 953 (Dec. 10, 2024); see also Anadi Tewari, 'Section 498A Being Misused To Force Husband To Comply with Wife's Unreasonable Demands: Supreme Court,' Bar & Bench (Dec. 11, 2024).

available statistics, while recognising where the evidence is incomplete. Methodologically, it adopts a doctrinal and socio-legal approach, drawing on statutory materials, reported judgments, committee and Law Commission reports, and available official crime and health-survey data.

2. The Protective Architecture

The law dealing specifically with cruelty in marriage developed in response to serious concerns raised during the late 1970s and early 1980s. Women's organisations drew attention to dowry-related deaths and cases in which violence inside the matrimonial home was described as an accident. Such incidents were difficult to investigate because they often took place in private, with members of the husband's family being the only witnesses. Parliament responded by introducing section 498A through the Criminal Law (Second Amendment) Act, 1983. Section 304B, dealing with dowry death, was added in 1986 and is now reflected in section 80 of the BNS.[3] The purpose was not only to punish cruelty after it occurred, but also to give the State a way to intervene before it resulted in serious injury or death.

Sections 85 and 86 of the BNS now deal with cruelty by a husband or his relatives. Section 85 provides for imprisonment of up to three years and a fine. Section 86 explains what amounts to cruelty. It covers two broad forms of conduct: wilful behaviour likely to drive a woman to suicide or cause grave injury to her life, limb or health; and harassment intended to force her or a relative to meet an unlawful demand for property or valuable security.[4] The offence is cognizable and non-bailable, and it is not compoundable as a matter of right. These features have a practical effect: police may arrest without a warrant in accordance with law, bail is not automatic, and the parties cannot end the criminal case simply by reaching a private settlement. These aspects have therefore become important in proposals for reform.

The criminal law is only one part of the protection available to women. Its constitutional background includes Articles 14, 15(3) and 21 of the Constitution, which concern equality, the State's power to make special provisions for women and the right to life and personal liberty. Other statutes provide additional remedies, as set out below.

Table 1: Principal legal remedies available in matrimonial disputes

Instrument	Nature	What it offers the wife
Sections 85–86 BNS	Criminal; cognizable,	Prosecution and punishment of

[3] Criminal Law (Second Amendment) Act, 1983, No. 46 of 1983; Indian Penal Code, 1860, § 304B (inserted 1986); Bharatiya Nyaya Sanhita, 2023, § 80.

[4] Bharatiya Nyaya Sanhita, 2023, §§ 85–86; see 'Cruelty Against Woman: SC Asks Centre to Consider Making Changes in Bharatiya Nyaya Sanhita,' Outlook India.

Instrument	Nature	What it offers the wife
(formerly s. 498A IPC)	non-bailable	cruelty by husband or relatives
Dowry Prohibition Act, 1961	Criminal; special law	Penalty for giving, taking or demanding dowry
Protection of Women from Domestic Violence Act, 2005	Civil, with penalty for breach	Protection, residence and monetary orders; right to the shared household
Section 125 CrPC / section 144 BNSS	Quasi-civil	Maintenance for wife and children
Hindu Marriage Act, 1955, ss. 13, 24, 25	Personal law; civil	Divorce on grounds of cruelty; interim and permanent maintenance

The availability of different remedies is important when considering claims of misuse. The Protection of Women from Domestic Violence Act, 2005 provides civil remedies such as protection, residence and monetary orders. These remedies do not depend on a criminal arrest taking place. At the same time, cruelty by a husband or his relatives continues to be a major category in recorded crimes against women. This may reflect the limits of civil remedies, the scale of violence, or the importance attached to the criminal process by parties involved in matrimonial disputes. More than one explanation may be true.

The constitutional position deserves closer attention because it determines how far Parliament may go in creating a special protection for married women. Article 15(3) permits the State to make special provisions for women and children, and it is generally understood as an enabling provision that operates alongside the guarantee of equality in Article 14.[5] When the constitutional validity of section 498A was challenged in *Sushil Kumar Sharma*, the Supreme Court held that the possibility of abuse is not a ground for striking down a law.[6] That reasoning is persuasive. A provision does not become invalid merely because it can be misused; the remedy for misuse lies in how the provision is applied. Article 21 points in the other direction. A person accused of an offence is entitled to a procedure that is fair, just and reasonable, and this applies to arrest, custody and prosecution. The protection owed to a woman who faces cruelty and the liberty of the person accused of inflicting it both have a constitutional basis. This is why the present paper treats the problem as one of procedure, not as a contest in which one side must be preferred over the other. The gender-specific wording of the offence is also debated. Sections 85 and 86 of the BNS are framed around cruelty to a woman by her husband

[5] Constitution of India, arts. 14, 15(3).
[6] *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281.

or his relatives. Whether a gender-neutral offence would be fairer is a matter of policy for Parliament, and the material examined here does not show that the present wording prevents courts from correcting abuse in individual cases.

3. The Misuse Debate: What the Evidence Shows

The term "misuse" is used to describe different situations, although they should not be treated as identical. The first is a complaint that a person knowingly makes on false facts in order to harass the other side. The second is an omnibus complaint: a woman may have a genuine grievance against her husband, but the complaint also names his parents, siblings or other relatives without explaining what each person is alleged to have done. The third is the strategic use of criminal proceedings during a marriage dispute, for example, to put pressure on the other spouse over divorce, custody or property. The legal response should depend on which situation is actually established.

The number of cases registered is often used in the debate. According to the National Crime Records Bureau (NCRB), 1,33,676 cases of cruelty by a husband or relatives were recorded in 2023. This represented 29.8 per cent of all recorded crimes against women, at a rate of 19.7 cases per lakh women.[7] The reported figure for 2024 was 1,20,227.[8] These numbers are sometimes presented as proof that the law is being widely misused. Others argue that they show how common cruelty remains. Neither conclusion can be drawn from the totals alone. A registered case is not necessarily a proven offence, but a case that does not end in conviction is not automatically a false complaint either.

Conviction rates are also frequently used to support arguments about misuse. The Law Commission noted the low conviction rate under section 498A in its 2012 report, and the issue has been mentioned in later judicial decisions.[9] However, an acquittal does not by itself establish that the original complaint was false. A case may end because the parties settle, a complainant withdraws or changes her evidence, witnesses become hostile, or the investigation is inadequate. In 2024, trials involving all crimes against women resulted in 45,832 convictions and 1,23,340 acquittals. This gives a conviction share of approximately 27 per cent, calculated from the reported figures.[10] Since this category includes several different offences, the figure

[7] National Crime Records Bureau, Crime in India 2023 (2025); see Press Trust of India, 'India Records Close to 4.5 Lakh Crimes Against Women in 2023' (Sept. 30, 2025).
[8] National Crime Records Bureau, Crime in India 2024 (2026); see 'NCRB Report 2024: Violence Against Women Is Not an Exception; It Is the Norm,' Feminism in India (June 1, 2026).
[9] Law Commission of India, Report No. 243, Section 498A, IPC (Aug. 2012).
[10] National Crime Records Bureau, Crime in India 2024 (2026); see 'NCRB Report 2024: Violence Against Women Is Not an Exception; It Is the Norm,' Feminism in India (June 1, 2026).

cannot be used to measure the truth or falsity of complaints under the cruelty provision alone. The reports of committees and law reform bodies also form part of this debate. In 2003, the Malimath Committee criticised the non-bailable and non-compoundable nature of the offence and recommended that it should be made bailable and compoundable.[11] Critics of this recommendation have noted that the Committee did not rely on systematic data proving widespread false complaints and did not consult women's organisations working on the issue.[12] Some figures also suggest that police practice has changed over time. Between 2015 and 2022, registrations under the provision increased from 1,13,403 to 1,40,019, while arrests fell from 1,87,067 to 1,45,095. This may indicate greater use of the restrictions on arrest discussed later in this paper.[13]

It helps to distinguish the different points at which a complaint can leave the criminal process, because each exit suggests a different explanation. The police may close a case for want of evidence, or file a final report after investigation. The parties may withdraw or settle. A High Court may quash the proceedings. Or the case may go to trial and end in conviction or acquittal. Only some of these outcomes are consistent with a deliberately false complaint, and none of them proves falsity on its own. Published statistics usually report registrations, arrests, chargesheets and trial outcomes, but they do not link a complaint to the reason why it ended. As a result, the same figure can support opposing readings. A low conviction share may point to weak complaints, to weak investigations, or to a system in which complainants settle under social pressure. A high number of registrations may reflect real violence, or it may reflect the use of the criminal process in disputes that are essentially civil.

The available evidence supports a limited conclusion. Reported judgments show that vague allegations against several relatives and the strategic use of criminal proceedings can cause serious problems. However, there is no national dataset that establishes how common knowingly false complaints are. The evidence therefore supports better procedural safeguards, but it does not support treating every woman who files a complaint as dishonest.

4. Judicial Responses: A Pendulum

The Supreme Court's decisions show an effort to balance two concerns: protecting women from cruelty and preventing unnecessary criminal proceedings against husbands and their

[11] Committee on Reforms of Criminal Justice System (Malimath Committee), Report (2003); see Lok Sabha, Starred Question No. 355 (Dec. 23, 2008).
[12] 'Section 498A: Laws,' India Together, https://www.indiatogether.org/sect498a-laws.
[13] National Crime Records Bureau registration and arrest figures for 2015 and 2022, as summarised in Vision IAS, 'Judicial Experimentalism versus the Right to Justice' (Sept. 17, 2025).

relatives. In *Sushil Kumar Sharma v. Union of India* (2005), the Court rejected the constitutional challenge to section 498A. It accepted that the provision could be misused in some cases, but held that the possibility of abuse was not a reason to declare the law unconstitutional.[14] In *Preeti Gupta v. State of Jharkhand* (2010), the Court expressed concern about the practice of naming several members of the husband's family, sometimes without specific allegations, and asked the legislature to consider the issue.[15] The Court's concern was therefore directed towards the way the provision was being used, not simply its existence.

A major decision on arrest procedure was delivered in *Arnesh Kumar v. State of Bihar* (2014). The Supreme Court was concerned that arrests were being made routinely in cases under section 498A, even though the maximum punishment was not more than seven years. It directed police officers to consider the statutory conditions before making an arrest, record reasons where arrest was necessary and issue a notice of appearance where it was not. Magistrates were also required to examine whether the reasons for detention were justified before authorising custody.[16] The decision is important because it protects personal liberty through proper use of existing procedure without removing the offence or the protection it provides.

In *Rajesh Sharma v. State of U.P.* (2017), the Supreme Court introduced a further safeguard.[17] It directed district legal services authorities to set up Family Welfare Committees to examine complaints before the police took further steps, and it restricted arrests until the committee had submitted its report. However, this arrangement did not remain in place. In 2018, the Court in *Social Action Forum for Manav Adhikar v. Union of India* held that the committees and their screening powers had no basis in the criminal procedure law and could not be introduced through judicial directions.[18] The Court instead emphasised compliance with the Arnesh Kumar guidelines and better police training. This decision shows that procedural safeguards must also have a proper legal foundation.

Later decisions focused more closely on the contents of complaints. In *Kahkashan Kausar v. State of Bihar* (2022), the Supreme Court quashed proceedings against relatives where the allegations were general and did not describe specific acts by each person.[19] In *Dara Lakshmi Narayana v. State of Telangana* (2024), the Court again considered the misuse of criminal proceedings in a matrimonial dispute and quashed the FIR, chargesheet and trial. At the same

[14] *Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281.
[15] *Preeti Gupta v. State of Jharkhand*, (2010) 7 SCC 667.
[16] *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.
[17] *Rajesh Sharma v. State of Uttar Pradesh*, (2018) 10 SCC 472 (decided July 27, 2017).
[18] *Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443, 2018 INSC 820 (Sept. 14, 2018).
[19] *Kahkashan Kausar v. State of Bihar*, (2022) 6 SCC 599.

time, it made clear that women who have genuinely faced cruelty should not be silenced.[20] In *Achin Gupta v. State of Haryana* (2024), the Court asked Parliament to consider whether sections 85 and 86 of the BNS, which largely reproduce section 498A, required reconsideration.[21] The provisions nevertheless remained in force in the form discussed in this paper.

In July 2025, the Supreme Court considered the issue again in *Shivangi Bansal v. Sahib Bansal*. It endorsed guidelines that had first been issued by the Allahabad High Court in *Mukesh Bansal v. State of U.P.* (2022). These included a two-month period after registration of the FIR during which coercive action would generally not be taken, subject to exceptions such as serious injury, and referral of complaints to Family Welfare Committees.[22] The case involved lengthy periods of custody: the husband had spent 109 days in custody and his father 103 days.[23] The guidelines have raised questions because Social Action Forum had earlier rejected committee-based screening as lacking a statutory basis. There is also debate about whether the 2025 directions apply beyond Uttar Pradesh.[24] Their scope and legal effect should therefore be checked against the latest official judgment before relying on them.

Taken together, these decisions show that the Supreme Court has repeatedly recognised the protective purpose of the law while also responding to cases of misuse. The Court has generally tried to address the problem through procedure, particularly arrest safeguards and the quashing of proceedings based on vague allegations. At times, however, judicial directions have gone beyond what the existing statute permits, as the Family Welfare Committee issue demonstrates. The request in Achin Gupta for Parliament to reconsider the provisions also highlights the role of the legislature in making any lasting changes.

Two broader points follow from this line of cases. The first concerns the division of institutional roles. Courts can interpret the existing offence, regulate the way arrest powers are exercised and quash individual proceedings that amount to an abuse of process. High Courts do the last of these through their inherent powers, now found in section 528 of the Bharatiya Nagarik

[20] *Dara Lakshmi Narayana & Ors. v. State of Telangana & Anr.*, 2024 INSC 953 (Dec. 10, 2024); see also Anadi Tewari, 'Section 498A Being Misused To Force Husband To Comply with Wife's Unreasonable Demands: Supreme Court,' Bar & Bench (Dec. 11, 2024).
[21] *Achin Gupta v. State of Haryana*, 2024 INSC 369 (May 3, 2024).
[22] *Shivangi Bansal v. Sahib Bansal*, 2025 INSC 883, ¶ 26 (July 22, 2025); *Mukesh Bansal v. State of Uttar Pradesh*, Criminal Revision No. 1126 of 2022 (Allahabad High Court, June 13, 2022) (guidelines referred to in paragraphs 32–38).
[23] *Shivangi Bansal v. Sahib Bansal*, 2025 INSC 883, ¶ 26 (July 22, 2025); *Mukesh Bansal v. State of Uttar Pradesh*, Criminal Revision No. 1126 of 2022 (Allahabad High Court, June 13, 2022) (guidelines referred to in paragraphs 32–38).
[24] 'When Procedure Becomes Policy,' Law and Other Things (Jan. 2026); see also LawWeb (Jan. 2026).

Suraksha Sanhita, 2023.[25] These tools operate case by case. They cannot create new stages in the criminal process or change the character of an offence, which is why the Family Welfare Committee scheme could not survive in *Social Action Forum*. The second point concerns the cost of relying on quashing as the main safeguard. A relative may obtain relief only after months or years of proceedings, a petition before the High Court and considerable legal expense. Early scrutiny by the police and the Magistrate, as required by *Arnesh Kumar*, is therefore more likely to spare a person needless hardship than a remedy available at a late stage.

5. Under-Reporting and the Other Side of the Ledger

The debate about misuse should also take account of the number of women who experience violence but do not seek help. The National Family Health Survey (NFHS-5, 2019–21) reported that 29.3 per cent of ever-married women aged 18–49 had experienced spousal violence. The comparable figure in NFHS-4 was 31.2 per cent.[26] Research based on NFHS-4 found that only 13.5 per cent of women who experienced spousal violence sought help from someone. NFHS-5 findings also indicate that women commonly turn first to their own families, while only a small proportion approach the police.[27] These figures suggest that official police records capture only part of the problem. They cannot, on their own, tell us how many complaints are genuine or false, but they do caution against assuming that high registration numbers mean the law is being misused.

Under-reporting is an important part of the discussion. A woman may depend financially on her husband, lack support from her family or fear the social consequences of leaving the marriage. These factors can prevent her from reporting abuse at all. In some cases, she may approach the authorities only after the relationship has broken down, when events have become difficult to describe clearly and emotions are high. A complaint that contains exaggeration or inconsistencies should be examined carefully, but those features alone do not prove that it was made dishonestly. This discussion is also informed by feminist legal scholarship. Flavia Agnes has examined the relationship between women's rights and legal institutions in India, while Rajeswari Sunder Rajan has considered how the State's protective approach to women affects

[25] Bharatiya Nagarik Suraksha Sanhita, 2023, § 528 (corresponding to Code of Criminal Procedure, 1973, § 482).
[26] International Institute for Population Sciences & Ministry of Health and Family Welfare, National Family Health Survey (NFHS-5), 2019–21.
[27] Study of NFHS-4 data on spousal violence and help-seeking, Journal of Epidemiology & Community Health, https://doi.org/10.1136/jech-2019-213266; see also Women's Web, discussion of NFHS-5 help-seeking findings.

their position as citizens.[28][29] Catharine MacKinnon's work provides a wider feminist account of how claims of legal neutrality can reflect the standpoint of those who create and apply the law.[30] The application of these ideas to section 498A is developed here as part of this paper's argument.

A fair assessment must also consider the people who may be wrongly drawn into criminal proceedings. Reported cases describe elderly parents, sisters-in-law living in other cities or countries, and other relatives facing the burden of investigation and trial. An arrest may also affect a person's employment and reputation. These consequences matter even where the complainant did not knowingly make a false allegation. At the same time, a pause in criminal proceedings may create difficulties for a woman who is seeking protection. The two-month period endorsed in 2025 might give parties time to consider reconciliation, but it could also give relatives an opportunity to pressure a woman to withdraw her complaint.[31] Both possibilities need to be considered when safeguards are designed.

The harm caused by domestic cruelty and the harm caused by unnecessary criminal proceedings should both be taken seriously. Reforms that remove the possibility of arrest altogether may leave women without an effective response in serious cases. On the other hand, ignoring vague or exaggerated allegations can expose innocent relatives to lengthy proceedings and weaken public confidence in the law. The challenge is to address procedural abuse without making it harder for a woman who has genuinely suffered cruelty to obtain protection.

6. Towards Balance: Procedure Over Dilution

Different forms of alleged misuse require different responses. The following proposals focus on improving procedure while retaining the substantive protection provided by the law.

Table 2 summarises how each form of alleged misuse identified in Section 3 calls for a different response. No single reform answers all three concerns, and several of the proposals below address more than one of them.

[28] Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press 1999).
[29] Rajeswari Sunder Rajan, The Scandal of the State: Women, Law, and Citizenship in Postcolonial India (Duke University Press 2003).
[30] Catharine A. MacKinnon, Toward a Feminist Theory of the State (Harvard University Press 1989).
[31] 'The "Healing Period" versus "Pressure Period" Debate,' LawWeb (Jan. 2026).

Table 2: Forms of alleged misuse and corresponding responses

Form of alleged misuse	What the record shows	Appropriate response
Knowingly false complaint	No national data on frequency; falsity must be established by a judicial finding	Action under the BNS provisions on false information and false charges, after a finding and a hearing
General allegations against several relatives	Reported cases show omnibus allegations; courts have quashed proceedings (Kahkashan Kausar; Dara Lakshmi Narayana)	Specific allegations in the FIR and chargesheet; judicial scrutiny; quashing where the requirements are not met
Criminal process used as pressure in a dispute	Arrests fell between 2015 and 2022 despite more registrations; custody of 109 and 103 days in Shivangi Bansal	Enforcement of arrest safeguards; voluntary mediation; court-supervised compounding

First, arrest safeguards should be properly enforced. The directions in Arnesh Kumar require police officers to record reasons for arrest and magistrates to examine whether detention is justified. Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) also contains provisions relating to notice of appearance. The main need is to ensure that these safeguards are followed in practice. Departmental action may be appropriate where officers make arrests without recording the required reasons, and courts should routinely check compliance. This approach can reduce unnecessary arrests without changing the offence itself. The fall in arrests between 2015 and 2022, despite an increase in registrations, may indicate that procedural controls can influence police practice.

Second, complaints should contain clear and specific allegations. The decisions in Kahkashan Kausar and Dara Lakshmi Narayana show why courts must be able to identify what each person is alleged to have done. Police should record relevant details, including the person involved, the conduct complained of and, where possible, when it occurred. Courts should examine these details before allowing proceedings to continue against relatives who have only been named generally. This protects people who have no specific role in the alleged conduct and also helps a genuine complaint by making its allegations clearer.

Third, Parliament should consider allowing court-supervised compounding in suitable cases. The Law Commission recommended making the offence compoundable with the court's

permission in its reports of 1996, 2001 and 2011, and the Malimath Committee also supported reform.[32] The BNS has retained the earlier position, which means that parties who settle generally have to approach the High Court to seek quashing of the proceedings. A statutory process for compounding could provide a clearer route where the parties genuinely wish to settle or reconcile. The court should first be satisfied that the woman's consent is free and informed. Without this protection, settlement could become another way of pressuring the person who is already in a weaker position.

Fourth, mediation should be available as a voluntary option, but it should not be compulsory. With trained mediators and access to legal aid, mediation may help parties resolve disputes that concern separation or other matrimonial issues. However, requiring every complainant to appear before a committee before the police can act would raise the same concerns that led the Supreme Court to set aside the committee arrangement in Social Action Forum. If Parliament considers a pre-arrest screening process necessary, it should create one through legislation and include exceptions for serious violence and urgent cases.

Fifth, the law should deal with knowingly false complaints, but only where falsity is clearly established. Sections 217 and 248 of the BNS deal with certain forms of false information and false charges. These provisions should not be invoked merely because the accused person is acquitted. An acquittal may result from several reasons and does not necessarily mean that the complainant deliberately lied. Any action for a false complaint should follow a clear judicial finding, after the complainant has had an opportunity to be heard. This would help distinguish deliberate falsehood from a genuine complaint that could not be proved in court.

Sixth, better data should be collected and published. For cases registered under the cruelty category, the NCRB should provide separate figures for complaints withdrawn, cases compounded, proceedings quashed, cases closed as false during investigation and cases decided at trial. At present, public discussion relies heavily on the number of registered cases and general conviction rates. More detailed information would make it easier to assess the nature of the problem and design reforms based on evidence rather than individual examples.

Two further steps could reduce the pressure on criminal proceedings. Protection Officers and shelter services under the Protection of Women from Domestic Violence Act, 2005 need adequate resources. Civil courts should also deal with maintenance and residence claims without unnecessary delay. If women can obtain timely and effective civil relief, they may have

[32] Law Commission of India, Report No. 154 (1996); Report No. 177 (2001); Report No. 237, Compounding of IPC Offences (2011); Committee on Reforms of Criminal Justice System (Malimath Committee), Report (2003).

less need to rely on the criminal process to secure immediate assistance. Faster and fairer civil remedies would also help reduce the pressure on both parties during a matrimonial dispute.

These proposals depend on institutional capacity as much as on legal drafting. Arrest safeguards will make little difference if police stations do not maintain proper records of the reasons for arrest or of the notices of appearance issued under section 35 of the BNSS. Magistrates who deal with large daily lists need time and clear formats to examine remand requests properly. Mediation is useful only if trained mediators are available and if legal aid is accessible to women who cannot afford a lawyer. Each of these steps also needs monitoring. Courts, State Governments and police leadership can track compliance through periodic audits, and the NCRB can include the relevant indicators in its annual reporting. The Supreme Court's emphasis in *Social Action Forum* on police training reflects the same point: a safeguard that officers do not understand or apply produces little protection for anyone.

There are regular demands to repeal section 498A or remove the corresponding BNS provisions. The material examined in this paper does not provide a sufficient basis for such a step. The available statistics do not establish that the offence itself is the cause of the problem, while survey findings show that a large number of women experience spousal violence without approaching the authorities. A better course is to retain the protection but improve the procedures through which complaints are investigated and prosecuted.

7. Limitations and Scope for Further Research

This study has several limitations. First, it relies on reported judgments, and these are not a representative sample of the cases decided by trial courts. Cases that reach the High Courts and the Supreme Court tend to be those in which a party had the resources to pursue an appeal or a petition to quash, so they may over-represent disputes involving vague allegations. Second, the statistics available are aggregated. They do not show how individual complaints ended or why, which limits what can be said about the proportion of complaints that are knowingly false. Third, the paper does not include empirical fieldwork. It does not draw on interviews with complainants, accused relatives, police officers, lawyers, mediators or Magistrates, whose experience would add detail that case reports and statistics cannot provide.

These gaps suggest several directions for future research. A study of closed cases in selected districts could classify the reasons for closure and test the assumptions discussed in this paper. Police records could be examined to assess how far the arrest safeguards in *Arnesh Kumar* and section 35 of the BNSS are followed. Research on mediation and settlement could ask whether

women's consent was free and informed and what happened to them afterwards. Finally, the later treatment of the 2025 guidelines should be followed closely, since their reach and legal basis may be clarified in subsequent decisions.

8. Conclusion

The debate over misuse of matrimonial laws is difficult because the concerns on both sides are real. Many women experience cruelty within marriage, and survey findings suggest that a large proportion never report it to the authorities. At the same time, criminal proceedings can cause serious harm when vague allegations are made against a husband and several members of his family. A fair legal response must recognise both situations.

This paper has suggested that the term "misuse" should be separated into different categories. Where a complaint is knowingly false, the law on false information or false charges may apply after falsity has been established. Where relatives are named through general allegations without details of their conduct, courts should examine the complaint carefully and quash proceedings where the legal requirements are not met. Where criminal proceedings are used as leverage during a matrimonial dispute, safeguards relating to arrest, voluntary mediation and court-supervised settlement may help. These measures do not require the substantive offence to be narrowed. Given the evidence of under-reporting, reducing the protection available to women could create further difficulties for those who genuinely need it.

The judicial decisions discussed above also offer a lesson about the limits of court-made procedures. The directions in Arnesh Kumar work within the existing criminal procedure framework by regulating arrest and detention. By contrast, the Family Welfare Committee arrangement introduced in Rajesh Sharma was later set aside because it lacked a proper statutory basis. Parliament has an important role in deciding whether to introduce a formal system for compounding, mediation or screening, and in providing safeguards for people affected by such a system.

There are still gaps in the available evidence. Public data do not yet show how many complaints are knowingly false, and the wider application of the cooling-period guidelines discussed in relation to the 2025 decision remains a matter that should be checked against subsequent legal developments. Despite these limitations, the central argument remains: the law should protect women facing cruelty while ensuring that criminal procedure is applied fairly to everyone involved. Both aims are necessary for a just legal system.

Selected Bibliography

Cases

- *Achin Gupta v. State of Haryana*, 2024 INSC 369.
- *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273.
- *Dara Lakshmi Narayana v. State of Telangana*, 2024 INSC 953.
- *Kahkashan Kausar v. State of Bihar* (2022) 6 SCC 599.
- *Mukesh Bansal v. State of U.P.* (Allahabad High Court, 2022).
- *Preeti Gupta v. State of Jharkhand* (2010) 7 SCC 667.
- *Rajesh Sharma v. State of U.P.* (2018) 10 SCC 472.
- *Shivangi Bansal v. Sahib Bansal*, 2025 INSC 883.
- *Social Action Forum for Manav Adhikar v. Union of India* (2018) 10 SCC 443.
- *Sushil Kumar Sharma v. Union of India* (2005) 6 SCC 281.

Statutes

- Bharatiya Nagarik Suraksha Sanhita, 2023.
- Bharatiya Nyaya Sanhita, 2023.
- Criminal Law (Second Amendment) Act, 1983.
- Dowry Prohibition Act, 1961.
- Hindu Marriage Act, 1955.
- Protection of Women from Domestic Violence Act, 2005.

Reports and data

- Law Commission of India. Reports Nos. 154 (1996), 177 (2001), 237 (2011) and 243 (2012).
- Malimath Committee. *Report of the Committee on Reforms of Criminal Justice System* (2003).
- National Crime Records Bureau. *Crime in India* (2023 and 2024 editions).
- International Institute for Population Sciences. *National Family Health Survey (NFHS-5)*, 2019–21.

Secondary works

- Agnes, Flavia. *Law and Gender Inequality: The Politics of Women's Rights in India*. New Delhi: Oxford University Press, 1999.

- MacKinnon, Catharine A. *Toward a Feminist Theory of the State*. Cambridge, MA: Harvard University Press, 1989.
- Sunder Rajan, Rajeswari. *The Scandal of the State: Women, Law, and Citizenship in Postcolonial India*. Durham: Duke University Press, 2003.

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