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EXPANSION OF MATRIMONIAL CRUELTY JURISPRUDENCE TO LIVE IN RELATIONSHIPS: A LEGAL AND CRITICAL ANALYSIS OF DR. LOKESH B.H. V. STATE OF KARNATAKA

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ABSTRACT

In the landmark judgment of *Dr. Lokesh B.H. & Ors. v. State of Karnataka & Anr*¹ the Supreme Court of India liberally expanded the horizon of gender-protective criminal jurisprudence of Section 498A Indian Penal Code, 1860. The Division Bench ruled that Section 498A of the Indian Penal Code, 1860 (now Section 85 of the Bharatiya Nyaya Sanhita, 2023) would also be applicable to women in live-in relationships. These live in relationships should qualify as "relationships in the nature of marriage" which depict the intrinsic intention to marry the person in cohabitation.

This paper presents an elaborate analysis of this decision. It will be covering its historical background, factual matrix, legal principles, critical legal evaluation and broader societal implications.

Keywords- Section 498A, Bharatiya Nyaya Sanhita, Live-in-Relationships, strict construction v. strict literalism, judicial ring fencing.

¹ *Dr. Lokesh B.H. v. State of Karnataka*, 2026 INSC 784 (India)

1. Statutory Dilemma & Historical Antecedents:

Section 498A (now Section 85 Bharatiya Nyaya Sanhita 2023) was inserted into the IPC through The Criminal Law (Second Amendment) Act, 1983. It was introduced to specifically combat the social evil of dowry deaths, dowry harassment, marital torture and domestic cruelty and bride burning. The section said that “*Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.*”

The term ‘husband’ was given a strict interpretation, to mean, a male who entered into a formal, legally recognized marriage under applicable personal laws (such as the Hindu Marriage Act, 1955 or the Special Marriage Act, 1954) or civil marriage statutes. The provision was strictly tied to formal marital status. The Penal statutes are generally given strict construction i.e. *nulla poena in lege*. Courts consistently interpreted the word ‘husband’ to mean a man lawfully wedded to a woman through recognized religious rituals or civil registration under statutory law.

With shifting societal norms and changing mindset in the society, live in relationship became choice of many young individuals. Two individuals would live together without marriage choosing this over the traditional concept of marriage. But again, these relationships came under scrutiny when one partner would exploit the other and abandon the relation. Thus, the Parliament brought Section 2(f) of the Protection of Women from Domestic Violence Act, 2005. This section granted civil remedies like protection orders, residence rights, maintenance even to women living in non-marital cohabitation. This Section introduced the statutory concept of a ‘domestic relationship’, which explicitly includes two persons living together in a ‘relationship in the nature of marriage’.

Women in non-formalized or cohabiting arrangements could seek civil remedies under the Protection of Women from Domestic Violence Act, 2005 or maintenance under Section 125 Code of Criminal Procedure, 1973 (now Section 144 Bharatiya Nagarik Suraksha Sanhita, 2023)². But the women cohabiting in live in relationship were denied criminal remedies against penal cruelty. This created a jurisdictional gap. While on one hand, the women cohabiting in live in relationships could avail the remedies under civil law through the Protection of Woman from Domestic Violence Act, 2005, and on the other hand under the criminal law, Section 498A Indian Penal Code, 1860 remained tethered to the formal legal definition of ‘husband’. This created a critical legal loophole. A man could live with a woman

² *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469 (SC)

as her de facto husband, demand dowry, inflict severe physical violence, and subsequently avoid criminal prosecution under Section 498A by alleging that their relationship lacked formal legal solemnization or was void due to a pre-existing marriage. This lacuna allowed abusive male partners in long-term cohabitations to evade criminal prosecution under Section 498A Indian Penal Code, 1860 by simply raising technical objections regarding the validity or solemnization of the marriage ceremony.

2. Factual Background and Procedural Trajectory:

This case originated from criminal proceedings that were initiated by Smt. Theertha (Respondent No. 2) against Dr. Lokesh B.H. (the appellant) who is a medical practitioner, and his family members.

The allegation that the complainant asserted were that after entering into a marital-like setup that involved long-term cohabitation, mutual representation to society, and a shared intention and promise to marry, the respondent no. 2 was subjected to physical violence, mental torture, and monetary dowry demands. She further alleged that Dr. Lokesh had concealed his prior marriage while cohabiting with her as husband and wife.

Dr. Lokesh in his defence moved to the High Court of Karnataka under Section 482 Criminal Procedure Code, 1973 seeking to quash the FIR and charge sheet filed against him under Section 498A Indian Penal Code, 1860. He contended that since there was no valid and legally binding marriage that existed between him and the Respondent, he could not be categorized as a "husband" under Section 498A Indian Penal Code.

The High Court in its verdict rejected the quashing petition. It adopted a purposive interpretation and held that a man cannot induce a woman into a marital cohabitation and subsequently plead the invalidity of the marriage so as to escape criminal cruelty charges.

Then Dr. Lokesh B.H. approached the Supreme Court. The appellant stated in front of the Supreme Court that penal statutes must be given a strict construction. For a man to fall within the category of husband, he should be legally and validly married to a woman. That if the court gave a judicial expansion of the penal terms than it would be violative of Article 21 of the Constitution of India. By giving it a liberal interpretation the court would be creating a retroactive criminal liability. He even stated that the woman cohabiting in live in relationship requires to take protection under the civil remedies available to her as given by The Protection of Women against Domestic Violence Act, 2005. The Supreme Court dismissed this appeal. It upheld the Karnataka High Court's order and further confirmed the maintainability of Section

498A Indian Penal Code, 1860 prosecutions in case where qualified live-in relationships could be established.

3. Key Judicial Findings and Legal Rationale:

i. Strict Construction v Strict Liberalism-

The Supreme Court in this judgement stated about the Purposive Interpretation of Welfare Penal Laws. The Supreme Court held that while penal statutes generally demand strict interpretation, social welfare provisions that have been inserted to combat the domestic cruelty must be interpreted purposively. The Supreme Court clarified that *“strict construction of penal statutes does not mean blind literalism that generates absurd results or undermines statutory objectives. Where literal reading enables a perpetrator to evade prosecution by exploiting a legal flaw in the relationship, courts must apply a purposive interpretation. A man who assumes the role and responsibilities of a husband cannot disavow that status when faced with charges of domestic abuse”*. It went on to say that mechanical literalism that would permit an abuser to benefit from their own deception or technical defects in marriage rituals will just end up defeating the underlying legislative intent. With this explanation the court put an end to the deception loophole.

ii. Constitutional Equality Under Article 14-

The Bench comprising of Justice Sanjay Karol and Justice Nongmeikapam Kotiswar Singh also evaluated the distinction between a legally wedded wife and a live-in partner facing domestic abuse under Article 14 of the Constitution:

"Cruelty, any which way, does not check at the door, whether the house it enters is that of a married woman or not. Once it enters, its propensity to destroy is aggravated."

The Court ruled that creating an artificial distinction between a formally wedded wife and a woman in a marriage-like relationship when addressing physical or psychological cruelty lacks an intelligible differentia with a rational nexus to the law's protective goal.

iii. Inadequacy of Solely Civil Protections-

The Court also went on to reject the argument that civil remedies under the Protection of Woman against Domestic Violence Act, 2005 were sufficient for partners living in live in relationship. Civil remedies such as restraint orders, residence right and criminal penalties serve distinct societal functions. Reserving criminal deterrence strictly for formally married women was held to be a ‘misstatement of law’.

iv. Threshold Framework and Essential Criteria-

The Supreme Court further elaborated certain guidelines to be considered under so as to prevent arbitrary applications on these grounds. The Supreme Court outlined indicators required for a live in relationship to fall within the scope of Section 498A Indian Penal Code, 1860-

- a) Relationship in the Nature of Marriage:** The Supreme Court laid down that there should be a clear mutual intention to marry which must form an intrinsic, foundational element of the relationship. Casual or transient cohabitation would be excluded from this Section. The Supreme Court reiterated the framework laid by it in the *D. Veluswamy v. D. Patchaiammal*³ The union must show durability, shared household, domesticity, and present themselves as a couple to society.
- b) Intrinsic Intention to Marry:** The existence of a mutual understanding or intent to marry must form a core foundation of the cohabitation.
- c) Consenting Adults:** The arrangement must involve consenting adult individuals.
- d) Judicial Ring Fencing:** To prevent unintended consequences in other legal domain laws, the Supreme Court explicitly limited the scope of its interpretation. *"The extended meaning attributed to 'husband' for purposes of Section 498A IPC cannot automatically be imported into other provisions of the IPC or other statutory enactments. The proposition of law is expressly limited to Section 498A Indian Penal Code, 1860."*
This ring-fencing will ensure that the expansion provided to the meaning of Section 498A Indian Penal Code, 1860, does not automatically alter other rights under various other laws like- property rights, inheritance laws, or statutory definitions under other codes.
- e) Procedural Safeguards Against Misuse:** The Supreme Court also Recognized that this expansive interpretation could lead to frivolous or vexatious litigation, and thus, established mandatory procedural safeguards to prevent arbitrary arrests in live-in relationship disputes. Firstly, it iterated that the trial court must verify that the complaint establishes prima facie initial evidence showing a qualifying relationship that existed along with an underlying intent or promise to marry. Secondly, the police officers cannot make automatic or routine arrests

³ *D. Velusamy v. D. Patchaiammal*, (2010) 10 SCC 469 (SC)

of a live-in partner or his relatives upon registration of an FIR under Section 498A Indian Penal Code 1860. There has to be a preliminary inquiry before any such arrest. Thirdly, investigations must strictly comply with guidelines laid down by this court in *Arnesh Kumar v. State of Bihar*⁴. The court stated clearly that the arrests should be exceptional, preceded by formal notices under CrPC⁵ (now BNSS⁶).

4. Critical Legal Vulnerabilities and Concerns:

The judgment in *Dr. Lokesh B.H. v State of Karnataka* marks a progressive step in gender jurisprudence. Despite its constitutional merit, there are several legal, operational, and structural challenges that are present:

i. Doctrinal Strain: Penal Strict Construction vs. Judicial Expansion-

A fundamental rule of criminal jurisprudence 'The Principle of Legality' (*Nulla Poena Sine Lege*). This principle states that penal statutes must be construed strictly. An individual should have clear notice of what constitutes a crime. By extending the definition of "husband" to include unmarried live-in partners has blurred the boundary between judicial interpretation and judicial legislation. This could become the slippery slope in criminal law. Purposive construction is beneficial for social welfare statutes. But applying them to expand the definitions to penal offenses risks introducing vagueness into criminal trials, where personal liberty is directly at stake.

The expansion of a defined penal term like 'husband', which acquired a legal status traditionally requiring statutory or customary marriage, stretches judicial interpretation into the realm of judicial legislation.

ii. The Ambiguity of 'Intention to Marry'-

The Court in this judgement mandates that Section 498A Indian Penal Code 1860 applies only where there is an established 'intention to marry'. In practice, proving a subjective, unwritten mental state in non-formalized setups is inherently difficult. The 'intention to marry' has been made a crucial filter, even though it an internal state of mind or just verbal assurance given over the years in a relationship.

The court has nowhere given directions as to what would be the level of documentation or oral testimony to establish the state of mind that establishes the intention of marriage.

⁴ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273

⁵ The Code of Criminal Procedure, 1973, Section 41A (Act No. 2 of 1974)

⁶ Bharatiya Nagrik Suraksha Sanhita, 2023, Section 35

It just puts an unnecessary additional burden on trial courts to put time and effort to distinguish between a badly ended romantic commitment and a relationship in the nature of marriage at the pre-trial or quashing stage. This ambiguity risks making preliminary investigations prolonged and subjective. The courts will have to evaluate digital records, testimonies, and social behaviours to determine whether an arrangement was a 'live-in with intention to marry' or a 'casual dating arrangement'. This requirement will lead to a mini trial at the quashing stage.

iii. The burden on in-laws and relatives-

Section 498A Indian Penal Code 1860 penalizes both the 'husband' and the 'relative of the husband'. Application of this provision to live-in relationships creates legal exposure for family members of live-in partners. It remains unclear how family members who never formally accepted and recognized an informal live-in relationship or were unaware of the existence of such relationship can be held criminally responsible as 'relatives' of a de facto husband. This kind of interpretation could become a source for harassment of the family members who obviously were oblivious of any such relation.

iv. Impact on Trial Courts and Policing-

The Supreme Court mandated preliminary inquiries and strict compliance as per the Arnesh Kumar⁷ guidelines before arrest to limit the potential misuse. However, transferring these requirements to ground-level for implementation introduces another set of challenges- Firstly, discretion at the Police Station Level. The Station House Officers (SHOs) will now judge whether a live-in arrangement qualifies as a 'relationship in the nature of marriage' before filing charges. This provides the investigative officers with significant discretionary power. Secondly, this also impacts the petitions under Section 482 Criminal Procedure Code, 1973. The High Courts may now hesitate to quash a FIR registered under Section 498A Indian Penal Code, 1860 involving live-in partners leading to the evaluation of 'intent to marry' to full-scale trials. This could increase pre-trial litigation for accused individuals seeking early discharge.

v. The Paradox of Status: Criminal Liability Without Civil Recognition-

The Supreme Court gave the definition of 'husband' under 498A Indian Penal Code, 1860 a judicial ring fencing i.e. just selective legal recognition. The Court explicitly

⁷ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273

isolated this ruling, stating that the expansion given to the term 'husband' applies only to Section 498A Indian Penal Code 1860/ Section 85 Bharatiya Nyaya Sanhita 2023 and it does not grant the partner rights of inheritance, civil status, or succession under personal laws. This creates a legal paradox where a man can be prosecuted as a 'husband' for the purpose of criminal punishment, but still the woman may not enjoy the corresponding civil rights of a 'wife' under other personal law statutes like succession and property.

5. Conclusion:

The ruling in *Dr. Lokesh B.H. v. State of Karnataka*⁸ reflects the judiciary's recognition of changing social structures in urban India. The court through this order has covered the live-in-relationship in the blanket of criminal protection against domestic abuse and dismantled the requirement of a formal legal marriage. The Supreme Court prioritized substantive protection over formal technicalities. The court rather than giving a strict interpretation choose to widen the scope of the Section 498A Indian Penal Code 1860/ Section 85 Bharatiya Nyaya Sanhita 2023. It gave the partner in the live in relation the cover of penal punishment. This judgement balances gender protection with procedural safeguards. The Court prioritized substantive justice over technical legal loopholes, preventing individuals from taking advantage of their own deceit and deception. The court again proved that no one in the eyes of law can take benefit of its own wrong.

At the same time, the decision leaves key practical challenges unaddressed. By giving a purposive interpretation to the penal statute, the Court has placed a heavy evidentiary burden on trial judges and police officers. They have given a huge responsibility to them to determine the true nature of cohabitation and determine the intention to marry. The Parliament will eventually need to update the statutory definitions directly to make this legal interpretation workable. The Parliament will now have to ensure that this extended criminal liability aligns with the formal statutory code.

⁸ *Dr. Lokesh B.H. v. State of Karnataka*, 2026 INSC 784 (India)