Chapter 5

HARASSMENT OF MEN BY WOMEN IN INDIA

- A CRITICAL STUDY
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“I was jailed under s. 498A, 323 and 504 of I.P.C. as my wife, Vineeta, had recorded a false case for demanding Rs. 14 lakhs as dowry after 2 years of marriage against me and my family. My father had never earned such amount, I never even thought about demanding such a huge amount. I have also sisters. Due to this case, my whole family has destroyed. We are suffering from financial scarcity. House has also sold. Now I don’t want to remain alive and want to commit suicide. My in-laws will be liable for my death.”267 This was the letter, which was written by Pushkar Singh, resident of Jankipuram Sector C, Lukhnow (Uttar Pradesh), just before committing suicide. After writing this letter Pushkar committed suicide on 06 Feb., 2007 by hanging. This incident shows how a man was deprived of his fundamental right of life and liberty, as provided to all human beings, including man, by our Constitution of India.

5.1. Right to life and liberty of men

Women are harassed by women, but even after this data is substantial, it does not come within the purview of whole. Mostly men hurt the life of mostly women, but this does not mean that all men hurt women. Mostly women are hurt by men, but it is not correct to say that all women are hurt by men and that’s why if all men are punished for the acts of most of the men, then how it can be said that all are provided with the fundamental right to live.

Right to live is that right, in which the custodian of the constitution, the Supreme Court itself said in Maneka Gandhi v. Union of India,268 that, “right to life is not limited to just physical existence, rather it is right to life with full dignity”. Supreme court following the judgment of Maneka Gandhi case in Frensisi Coleri v. Union of India,269 said that the word

268 A.I.R. 1978 SC 517
269 A.I.R. 1981 SC 746
“life” under article 21 of the Constitution of India does not mean the life of animals, rather it means the life of human beings, and it has not only physical existence, but spiritual existence also. The right to life is not limited to the mere protection of the body parts, rather it also includes right to live with full dignity, which is necessary for making complete the human life.

The incidents, where woman or her parents misuses the liberty provided by law to her and file a case of cruelty for the demand of dowry only because the marriage has taken place within past 7 years or the incidents, in which woman report the fake case of rape or its attempt against some man, are said to be the direct assault over the dignity and the right to life and liberty of the man. The side of woman is also generally strong in the court, as she is prima facie deemed to be innocent in all the cases. It is also considered that woman never takes the steps to lodge the complaint, which ultimately affects the interests of man in the case. If in any case, there is lack of evidences and witnesses from both husband and wife, then soft nature of court towards woman, create problem for man. In Onkar v. State of Punjab, the bench, comprising of Justice Fakkir Mohamed Ibrahim Kalifulla and Justice Amitava Roy, of Supreme Court of India, on Dec. 15, 2015, stated that, “We do agree with the learned counsel for the respondent that the expression "soon before her death" need not necessarily mean immediately before the death, but can even be stretched to a period, which can be found to be reasonably close to the death of the deceased. But still when we appreciate the evidence of the brother of the deceased lady and the conclusion reached by the Courts below, his evidence was right from the beginning directed towards all the accused in equal proportion without any overt act at the instance of the appellant, i.e. the husband of the deceased lady, and based on the said evidence, when the Trial Court exonerated uncle of the appellant and his wife and by the High Court the parents of the appellant, we are unable to appreciate the conclusion of the High Court that on the very same evidence the appellant alone could be isolated and convicted. The stray distinction which the High Court wanted to state, namely, that the parents of the appellant and the uncle of the appellant were living separately cannot be a ground to hold that with the meager evidence available on record, the appellant alone should be held responsible for the death of the deceased. In the

circumstances, the benefit should go to the appellant and consequently, we are convinced that the impugned judgment of the High Court cannot be sustained. Moreover, the appellant is stated to have already undergone five years incarceration in jail. Taking into account all the above aspects and the judgments in Yanob Sheikh alias Gugu v. State of West Bengal\(^{271}\) and Rajinder Singh v. State of Punjab,\(^{272}\) the impugned judgment of the High Court, convicting the appellant under s. 304-B, I.P.C., is set aside and the appellant shall be set at liberty.”

In other case of Baljinder Kaur v. State of Punjab,\(^{273}\) the bench, comprising of Justice T. S. Thakur and Justice R. Banumathi, of the Supreme Court of India, while dealing with an appeal, comprising charges under s. 304-B, I.P.C. and s. 113B, The Indian Evidence Act, 1872 against the accused husband and others, took into consideration the term “soon before death” in s. 304-B, I.P.C. and s. 113B, The Indian Evidence Act, 1872, as described in Hira Lal v. State (Govt. of NCT) Delhi.\(^{274}\) The Supreme Court in that case gave an observation that, “A conjoint reading of Section 113B of the Evidence Act and Section 304B, I.P.C. shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. The prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of death occurring otherwise than in normal circumstances. The expression soon before is very relevant where Section 113B of the Evidence Act and Section 304B, I.P.C. are pressed into service. The prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led by the prosecution. Soon before is a relative term and it would depend upon the circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113B of the Evidence Act. The expression soon before her death used in the substantive section 304B IPC and section 113B of


\(^{273}\) Criminal Appeal No. 1142 of 2011, Decided on Nov. 19, 2014.

\(^{274}\) 2003 (8) SCC 80
the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression *soon before* is not defined. A reference to the expression *soon before* used in Section 114 Illustration (a) of the Evidence Act is relevant. It lays down that a court may presume that a man who is in the possession of goods *soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for their possession.* The determination of the period which can come within the term *soon before* is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression *soon before* would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.”

The bench further also considered the opinion of the court in *Kamlesh Panjiyar v. State of Bihar*\(^\text{275}\) that, “The expression *soon before* is very relevant where Section 113B of the Evidence Act and Section 304B, I.P.C. are pressed into service. Prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led by prosecution. *Soon before* is a relative term and it would depend upon the circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113B of the Evidence Act. The expression *soon before her death* used in the substantive Section 304B, I.P.C. and Section 113B of the Evidence Act is present with the idea of proximity test……” In *Thakkan Jha & Ors. v. State of Bihar*\(^\text{276}\) and *Baldev Singh v. State of Punjab*\(^\text{277}\) the court gave the same opinion.

\(^{275}\)(2005) 2 SCC 388

\(^{276}\)(2004) 13 SCC 348

\(^{277}\)(2008) 13 SCC 233
The above judgments of the Supreme Court laid down the proximity test that, “There must be material to show that soon before her death the woman was subjected to cruelty or harassment for or in connection with dowry. The facts must show the existence of a proximate live link between the effect of cruelty based on dowry demand and the death of the victim. Soon before death is a relative term and no straitjacket formula can be laid down fixing any time limit. The determination of the period, which can come within the term soon before death is left to be determined by the Courts depending upon the facts and circumstances of each case.”

The bench conclude the proceedings, stating that, “There is no evidence showing any persistent dowry demand or the conduct of the appellant subjecting Sharanjit Kaur to cruelty or harassment for or in connection with dowry. About twenty days prior to the occurrence, when Sharanjit Kaur went to her father’s house, she only generally stated about the dowry demand. She had not specifically stated about the demand of dowry by the appellant. In their evidence PWs 4 and 5 have stated that on 25.8.1997, they went to the house of Pritam Singh in village Burj Naklian, all the accused except appellant Baljinder Kaur were in the house. After the alleged demand of gold karra two months after the marriage, Sharanjit Kaur went to her house, again came back to the marital house and again went to her father’s house and again came back to the marital house. In our considered view, the alleged demand of gold karra about two months after the marriage cannot be said to constitute a proximate live link with the death of deceased Sharanjit Kaur and the conviction of the appellant under Section 304B IPC cannot be sustained. Even though there is no evidence that the deceased was treated with cruelty or harassment in connection with the demand of dowry soon before her death by the appellant, in our view, evidence on record makes out an offence under Section 498A IPC. So far as the sentence, the occurrence was of the year 1997. The appellant is having three grown up children. The appellant has already undergone sentence for a period of about fifteen months. In the facts and circumstances of the case, for the conviction under Section 498A, she is sentenced to undergo imprisonment already undergone. In the result, conviction of the appellant under Section 304B IPC is set aside. The appellant is convicted under Section 498A IPC and sentenced to undergo the period already undergone by her. The appeal is partly allowed to the extent indicated above. The appellant is on bail. The bail bond shall stand discharged.”
It is generally seen that woman reside in the house of her in-laws for sometime after the marriage and later on goes to her parental home. She returns only, when she ensures herself that the husband will take a separate home from the house of her in-laws. On taking separate home by husband, she comes back and one day when he goes out for some work, she goes away with her brothers or any relatives along with her articles, and files a case under s. 498A, I.P.C. against her husband and in-laws for committing cruelty for the want of dowry. The strange fact in such cases is that even after residing in separate house, wife files case for cruelty against her in-laws, who never visits the separate house of the wife. In such cases, husband is frustrated to such an extent that he wants to end up his life. But, this is the blessing of the god or his family that he saves his life from suicide and jail by compromising with wife after giving her huge amount of Rs. 10 to 50 lakhs, which comes from selling of his ancestral lands. Unfortunately, husband and his family never find the law along with them at any point of time. In Ram Saran Varshney and others v. Stae of Uttar Pradesh and another, an F.I.R. was lodged against the husband, his parents and his three sisters under s. 3 and 4 of the Dowry Prohibition Act, 1961 and s. 498A and 506 of I.P.C. The bench, comprising of Justice Jagdish Singh Khehar and Justice N. V. Ramana, of the Supreme Court of India, on Feb. 02, 2016, after hearing all the facts, evidences and arguments of both the parties, stated that, “Since all the three sisters of the husband of the respondent lady are married, and living independently in different places, they had no concern with the relationship of the respondent lady and her husband and in-laws. Furthermore, our attention was also invited to the fact, that no clear allegations have been leveled by respondent lady against any of the three sisters of the husband of the respondent lady. Even during the course of hearing, respondent lady, who entered appearance in person, did not contest the aforesaid factual position. Her only submission, during the course of hearing was, that her three sisters-in-law had visited her matrimonial house, on the occasion of 'Grah Parvesh', and the 'Naming Ceremony' of her daughter. We are of the view, that the visit of the three sisters-in-law of respondent lady, on the above two occasions were for celebration, and cannot be treated as occasions, where they harassed her. In any case, in the absence of any material on the record of

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this case, relating to harassment on the above two occasions, we are satisfied, that the proceeding initiated against the three sisters of the husband of the respondent lady, consequent upon the registration of the first information report by respondent lady on 10.04.2002, was not justified. The same deserves to be quashed. The same is accordingly hereby quashed in favour of the three sisters of the husband of the respondent lady under s. 3 and 4 of the Dowry Prohibition Act, 1961 and s. 498A and 506 of I.P.C."

Further in State of Karnataka v. Dattaraj & others, the bench, comprising of Justice Jagdish Singh Khehar and Justice S. A. Bobde, of the Supreme Court of India, stated that, “The alleged dowry demand of a sewing machine is inconsequential with respect to the provisions under which the accused husband and his parents were charged, when one of the prosecution witnesses stated in her cross examination that the petitioner lady knew tailoring and the sewing machine was given to her for tailoring clothes. This was really a gift to the petitioner lady, and therefore, cannot be considered as a part of the demand made by the accused husband for himself or for his family members. There was no further attribution against the respondent husband and his parents. It is therefore not possible for us to accept, that the prosecution was successful in establishing either harassment or violence towards the petitioner lady, as against the aforestated accused, nor of any dowry demand. In such view of the matter, it is difficult for us to conclude the culpability of respondent husband and his parents, in the entire occurrence. We are satisfied, that the High Court was fully justified in recording that even the statements of the prosecution witnesses, did not attribute any kind of overt act to respondent husband and his parents. The High Court was, therefore, fully justified in acquitting respondent husband and his parents, for the offences punishable under Sections 498A and 304B read with Section 34 of the IPC, as also, for the charges under Sections 3, 4 and 6 of the Dowry Prohibition Act, 1961.”

Similar are the cases of rape and its attempt, where either long legal proceedings or long jail term or suicide are often the future of the innocent men. When woman has used up all her tactics, then she uses that method, which a woman of civilized society will never use. She get recorded a case of rape or its attempt against the proposed man. The liberal view of the law towards woman makes her morale strong. Now, whenever she has a dispute with any man, the

former gives to latter a threatening of entangling in the case of attempt to rape, and the law does 
not stand against her, rather gives her more liberty in one or another way.

Is this the law so that an innocent person is to be punished only because the person is a 
man? If he will be discharge from all of the allegations against him, even then will the law 
indemnify him for his defamation, which is only because of baseless allegations? Is it not 
important that the victim should be medically examined; evidences and witnesses should be first 
heard before making the arrest? So that it can be ensured that if something happened wrong to 
the victim lady, all that is done by the man, on which she is framing allegations. Same are the 
cases of dowry demand and cruelty for the want of dowry, where only women are heard 
partially. Is it correct to say under the law that innocent get the punishment and the actual 
accused is roaming free. In State of Maharashtra v. Hemant Kawadu Chauriwal etc.,

the bench, comprising of Justice Pinaki Chandra Ghose and Justice R. K. Agrawal, of the Supreme 
Court of India, stated that, “In a case, where the wife is found in burnt position, there ought to 
have effect of the incident in the house, the place of occurrence was an important fact, the 
seizure of surrounding material was also important. However, no such efforts were made. Even 
the handwriting of the deceased was not investigated. In the light of the above, the defense 
deposed before the Court that the deceased locked herself in the bathroom, poured kerosene and 
set herself on fire. It was further stated that the accused had to break open the door and then the 
deceased was taken to the hospital. The Investigating Officer could have easily located the place 
of occurrence or even a broken door or lock. The probability here, tilts in favour of the accused 
that possibility of suicide being committed by the deceased cannot be ruled out completely. In 
our opinion, the two pivotal evidences i.e. dying declaration and the alleged letters having not 
been proved, strikes at the very root of the prosecution case. We are, therefore, of the view that 
the High Court rightly pointed out the lacunae in the shabby investigation of the case. Moreover, 
the prosecution failed to stand its ground and bring home its case. The bench upheld the order of 
the High Court of Maharashtra, setting aside the conviction and sentence for the charges under s. 
302, 304-B, 498A, 34 I.P.C. in favour of the accused husband and his parents.”

There are so many cases, where women marry due to the force of their parents and later on, when they find themselves unable to continue the married life, then they return back their parental home and misuse the law relating to dowry demand. The law should seriously make the arrangements for both the parties for the purpose of resolution of the matter, otherwise men will have to forget that they have also the right to live with full dignity in this country. It is unfortunate to say that the women are misusing the laws in the wrong way, which are provided to them for the protection of their interests.

5.1.1. Different aspects of cruelty against men

In India, men are coming across various forms of cruelty against them by the opposite sex, i.e. women, and are classified them accordingly:

A. **Physical cruelty:** Present situation is that, “Husbands and male partners have presented serious evidence of being scratched, punched, bit and things thrown at them by their female partners apart from attacks with deadly instruments. In the absence of a legal system to protect men from physical violence, these victims get little or no medical care or attention and are even unable to speak of their physical wounds due to the unavailability of a law to protect them from abuse.”

B. **Emotional cruelty:** It includes, “Demands to forcefully separate the husband from his parents and family, demand for separate residence, threat of police action and legal recourse, if the wife's demands are not met, are some of the commonly seen tactics of emotional abuse. Also, constant non-cooperation of the wife or the female partner in the smooth running of a family is another commonly seen tactic, which is used to abuse husbands in case of non-fulfillment of the demands of the wife.”

C. **Verbal cruelty:** Calling husbands and male partner’s derogatory names with an intent to demean and hurt. Names like "impotent", "spineless", "hijra (eunuch)" have most commonly come up and are verbal abuses that are leveled against husbands and male partners with intent to cause pain and ignominy.

D. **Legal cruelty:** The acts of misusing the state machinery by the wife or female partner for coercing the husband or the male partner to abide by their demands.
Common among these are the misuse of s.498-A, Domestic Violence Act, 2005, rape or molestation laws, denying child custody on event of separation and maintenance laws.

E. Economic cruelty: It includes, “Constant irrational demands on the husband for purchase of jewellery, real estate, expensive clothing, automobiles, restaurant hospitality, feminine beauty products and demands for payments to family members of the wife's family are also noted. When the husband or the male partner was unable to meet the financial demands of the female partner, they are subjected to further emotional and physical abuse.”

F. Sexual cruelty: Under sexual cruelty, “Women are using consensual physical relations to coerce a man for either financial payments and/or forced marriage, threatening to file cases of rape and molestation after consensual physical relations, forcing men to start families against their will and denying physical relation in a matrimonial relation, if irrational and unreasonable demands are not fulfilled were some examples.”

It is sad to say that the Supreme Court in the historical case of Sushil Kumar Sharma v. Union of India 282 has condemned s. 498A as ‘Legal Terrorism’. In 1985, amendments were made in Indian Penal Code and Criminal Procedure Code in relation to dowry. The object of those amendments was to empower women and to stop the bad consequences relating to the dowry. The government got the success to some extent in its object. Women became aware when the dowry lovers got punishment. Due to the strictness in the law, two changes came into effect. First, women were not murdered and harassed for the want of dowry, and the second was the awareness relating to the dowry prohibition laws. In Narendra v. K. Meena, 283 a wife continuously forced her husband to live separate from his family members. It was a case in which the husband was the only person, who was earning and maintaining his family. The wife was interested to

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282 (2005 (6) SC 266
spend herself the whole income of her husband. She also leveled fake charges against her husband that he had extra marital relations with their maid. Further, she had attempted to commit suicide by burning herself after pouring kerosene oil, without any reasonable ground. On Oct. 06, 2016, the bench, comprising of Justice Anil R. Dave and Justice L. Nageshwara Rao, after considering the law fixed in *Pankaj Mahajan v. Dimple @ Kajal*\(^\text{284}\) and *Vijaykumar Ramchandra Bhave v. Neela Vijaykumar Bhave*,\(^\text{285}\) held that such continuous pressure on husband to separate him from his family by his wife is considered to be the cruelty because firstly, in Indian society and ethos, it is very normal that a son is maintaining his parents, and secondly, in this Hindu society, maintaining the parents is a pious obligation of the son. Such husband has the right to demand divorce from his wife, who has leveled fake charges of having extra marital affairs against him, as it is hard to live peacefully along with such wife. It is such husband, who has saved her from committing suicide. As per the bench, “if the wife had succeeded husband, it would have entangled the husband into clutches of law. It is mental cruelty to husband. Only one event was sufficient for the husband to get divorce on the ground of cruelty.” Hence, the order, passed by the High Court of Karnataka, against the appellant, is said to be set aside and quashed.

### 5.1.2. Domestic Violence Data

Two foundations, namely “Save Family Foundation” and “My Nation Foundation”, surveyed over internet from April, 2015 to March, 2016.\(^\text{286}\) In total 1,00,000 men were surveyed during that one year. Around 98.2% of men, surveyed over internet, had suffered serious domestic violence from their wives and in-laws. Such violence included the physical, verbal, economical, sexual, mental, emotional and financial abuse.

The order of violence on the basis of the affected men:

\(^{284}\) (2011) 12 SCC 1  
\(^{285}\) 2003 (6) SCC 334  
A. The most affected men are due to economic violence, which are 34.3%.
B. Second used violence was physical violence, which affected 28.6% men.
C. Third type of violence was emotional violence, by which 27.5% men were affected.
D. 20.4% men were affected by sexual violence.
E. Lowest used violence was verbal abuse, which was faced by all men surveyed.

The sad hardcore reality of the survey was that the two foundations came to know that most of the men never reported the matter of violence to any person or authority, as they thought that they would be the subject of ridicule or they would lose their reputation in the society. That violence psychologically affected those men and often the man went into irreparable mental loss. On making deep study, the two foundations also got to know that a number of men went into the loneliness, away from the society or became habitual of some bad habit or committed suicide.

The President of harassed husbands association in Gujarat, Dashrath Devda, had fought Lok Sabha elections to spread the message – Domestic Violation laws are against men. The report prepared by an NGO, Save Family Foundation, said that Madhya Pradesh has the highest number of harassed husbands. The report claims that within three weeks of the launch of the helpline, the NGO had received 11,000 calls from across the country, and 60% of them were from Madhya Pradesh alone. The NGO, a conglomerate of about 42 NGOs, works in India, the USA, the UK, Australia and the UAE. The helpline works simultaneously from Lucknow, Bangalore, Pune and other parts of the country. The helpline claims to aid men, who have fallen prey to misuse of the section 498 A of the Indian Penal Code. According to the NGO, about 21 calls every hour and 500 calls per day from different parts of the country.

5.1.3. Data of suicide by men

As compared to married women, the total numbers of suicides by married men are:
<table>
<thead>
<tr>
<th>Year</th>
<th>Married Men</th>
<th>Married Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>60,360</td>
<td>27,186</td>
</tr>
<tr>
<td>2015</td>
<td>62,493</td>
<td>28,438</td>
</tr>
<tr>
<td>2016 (Till Oct. 31, 2016)</td>
<td>53,575</td>
<td>26,126</td>
</tr>
</tbody>
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As per data of the National Crime Records Bureau (NCRB), in a period range of 10 years, between the year 1996 to 2006, the total number of suicides in the country has 40% raised; and the most dangerous thing is that another terrible data of next 10 years (2006-2016) is yet to come. Out of these total suicides, 26.1% cases are of domestic violence, and due to unknown reasons, 16.6% men has committed suicide. Taking these percentages into account, an estimated:

- Due to domestic violence, 14,439 married men committed suicide in 2014;
- In 2015, total 21,545 married men committed suicide due to domestic violence;
- Every year approximately 17,302 married men are committing suicide due to domestic violence, and
- Between the years 2006 – 2015, around 1,82,583 married men have committed suicide due to domestic violence.

Men are always highest in number in committing suicide among the persons, who have committed suicide and were living with their spouse, whether they were married or separated. In other categories of persons, either men were committing suicides equal to that of women or even slightly lesser than women), which shows that the other partner, i.e. women, were committing violence over men. Sanjay Kumar allegedly committed suicide by shooting himself inside the court campus at Munger (Bihar), where his estranged wife was due to come for appearance before a family court. He shot himself

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in the temple and died on the spot. Kumar was under depression as his wife had left him recently. She was to appear in a family court at Munger in afternoon at that day.

In **Amit Choudhary v. State of Uttarakhand and another**, Justice Alok Singh stated that, “To constitute an offence punishable under Section 306 I.P.C., prosecution must allege that wife was subjected to cruelty with clear cut mens rea to drive the wife to commit suicide. A routine quarrel between the husband and the wife without there being any mens rea to commit suicide would not amount to abetment as defined under Section 107 of I.P.C. I have carefully perused the record. I do not find any material which could demonstrate or suggest the ground of quarrel between the couple. Simple or routine quarrel in a married life does not mean intention to abet the spouse to commit suicide. In view of the above discussion, I am of the firm opinion that offence punishable under section 306 of I.P.C. is not made out. It seems that in the present case, chargesheet was filed on the sole basis of routine quarrel between the husband and the wife, which cannot be said to be justified. Criminal law should not be set on motion on the basis of hypothecation, imagination or suspicion. Asking a citizen to face a criminal trial without there being any sufficient material may lead to deprivation of personal life and liberty and it may ruin the reputation of a person/citizen of this country. Therefore, Investigating Agency should be sensitive to the fact that none should be asked to face the prosecution without there being any sufficient material justifying the prosecution. Impugned FIR as well as charge sheet and the entire proceedings of Criminal Case No. 6664 of 2015, State v. Amit Choudhary, pending in the court of C.J.M., Haridwar are hereby quashed.”

5.1.4. Meaning of “CRUELTY” considered by various courts

In **Krishna Banerjee v. Bhanu Bikash Bandyopadhyay**, Calcutta High Court said, “A wife's conduct of humiliating her husband in the presence of family members


290 AIR 2001 Cal 154
and friends, taunting her husband on his physical incapabilities, denying him access to physical relationship, wife opting out for second marriage without applying for the divorce proceedings, deliberately wearing clothes which her husband dislikes, neglect her husband, extra-marital affairs of wife, coldness and insult, threatening to commit suicide, keeping husband outside the door of house, cruel behavior of wife where wife tearing the shirt of the husband, refusing to cook food properly or on time and breaking of the mangalsutra in the presence of husband’s relatives, visiting her parent's family off and on against her husband's wishes, undergoing an abortion despite her husband asking her not to do so, refusing to do household work, complaining to husband's employer, disobedience by wife can also be a ground of cruelty against the husband”.

Abovesaid acts of wife are not directly comes under the purview of physical violence to husband. But, due to its harmful effects over the mind of husband, these acts are said to be the acts of mental cruelty. There are innumerable precedents dealing with the term “cruelty”, which may be read here. But, what’s the use of them. There is no strict meaning of the term “cruelty”, and it is also not possible because one act or conduct may be considered as cruelty in some case and it may not be considered as such in some other case. Mental cruelty may be considered as when either the husband or the wife gives mental pain, pressure, agony or suffering of such an extent that it divides the wife or the husband. The Supreme Court also held in S. Hanumantha Rao v. S. Ramani,291 “The party, who has committed wrong, is not expected to live with the other party”. In the light of the abovesaid judgment by the superior court it can be said that reporting fake and false allegations by wife against her husband also amounts to mental cruelty to the husband.

In Surinder Mohan Chopra v. Nirmala Chopra,292 the double bench, of Punjab and Haryana High Court held, “If the serious allegations against husband having illicit relationship with another woman leveled by wife in written statement remain unsubstantiated, it amounts to cruelty against husband”. Court may dissolve the marriage

291 AIR 1999 SC 1318

292 AIR 2007 (DOC) 183 (P & H) (DB)
on the ground of impotency, subject to the condition that either spouse was incapable of
effecting the consummation, either due to structural defect in the organs of generation
rendering complete sexual intercourse impracticable or due to some other cause at the
time of marriage. In Gudivada Venkateswararao v. Gudivada Nagamani,293 Andhra
Pradesh High Court held, “For the purpose of consummation of marriage, ordinary and
complete sexual intercourse must take place”.

Making false and totally fake allegations on one or the other evidences by the
wife against her husband is now become the trend in India. In Raj Kumari
Jaiswal v. Ramesh Kumar Jaiswal,294 Calcutta High Court held, “The wife leveled
charge of second marriage on husband, placing reliance on voter’s list. It was held that
the electoral roll was not cogent evidence to prove second marriage of husband”. It is said
that every action has the equal and opposite reaction. Sometimes this principle is also
Allahabad High Court held, “Adultery can be a ground for dissolution of marriage. False
allegation of adultery against husband amounts to divorce”. Sometimes due to
circumstances or other reason, except his intention to stay away, the husband remains
away from his wife. This is not a ground of desertion for divorce, and cannot be claimed
by a wife against her husband. As the Supreme Court also reiterated the similar fact in the
case of Bipin Chandra Jaisinghbhai Shah Vs Prabhawati,296 “The essential conditions
for the offence of desertion are prescribed as regards deserting spouse:

- The factum of separation.
- Intention to bring co habitation permanently to an end”.

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293 AIR 1962 AP 151
294 AIR 2007 Cal 94
295 AIR 1999 All 43
296 (1956) SCR 838
Courts in India give judgments with the changing scenario in the society. Punjab and Haryana High Court held in *Satya v. Siri ram*, 297 “Where the husband himself, his sister and his parents were always crazy to have a child in the family but the wife always dashed their hopes by resorting to termination of pregnancy twice, this conduct of the wife amounts to mental cruelty at least, if not physical to her husband and the husband’s will within his right to claim decree of divorce on that ground”. In *R. Sivasubramaniam v. S. Krishnaveni*, 298 Madras High Court held, “If the husband takes the plea of cruelty by wife, then the burden lies on him to establish his case”. Opposite to it, if some wife alleges the cruelty by the husband and her in-laws, then she will not have to prove nothing and the court considers her statement to be true, rather the husband will have the initial burden of proof to prove his innocence.

Karnataka High Court gave one more example of the mental cruelty to the husband, in its judgment in *J. Sudhakara Shenoy v. Vrinda Shenoy*, 299 by saying, “The wife tearing of bridal garland on the marriage day itself also amounts to cruelty”. One more case of false allegations by wife just to harass the husband was of *Mrs. Deepalakshmi Saehia Zingade v. Sachi Rameshrao Zingade*, 300 where Bombay High Court held, “In this case petitioner/wife filed a false case against her husband on the ground of ‘Husband Having Girl Friend’ which is proved as false in a court of law so it can be considered as cruelty against husband”.

The conduct and character is also seen by the court and has taken into consideration by it, while giving judgment. In *Vimla Ladkani v. Dr. Chandra Prakash Ladkani*, 301 Madhya Pradesh High Court held, “Wife leading immoral life amounts to cruelty. The wife had illicit relations with another person. It was held that the conduct of wife amounted to mental cruelty and hence the order decreeing divorce in favor of

297 AIR 1983 P & H 252
298 AIR 2007 (NOC) 584 (Mad)
299 AIR 2001 Karn 1
300 AIR 2010 Bom 16
301 AIR 1996 MP 86
husband was proper”. In one more case, Madras High Court held, “Acts of commission by a woman in filing a criminal complaint against her husband and his relatives resulting in the husband being in distress in jail constitute mental cruelty to him and, therefore, he is entitled to get the relief of divorce. It is also said by various judges that it is the matter of question that the conduct amounted to cruelty or not and it should be seen from case to case. Judges of the Supreme Court also observed that in general way, cruelty includes detrimental acts, unjust reprehension, complaints or taunting. It should be established that if the wife, ignoring consequences, has dealt with the husband in a rude manner, which the other party could not be called upon to tolerate, and that rude manner has caused injury to health or there is a reasonable apprehension of such injury, then these acts and conduct of the wife should be the grounds of harassment of men and should be considered as mental cruelty.  

Madras High Court in one judgment considered, “Distress and social humiliation heaped on a husband by his wife by filing a false complaint and getting him arrested would amount to cruelty, which is a valid ground for divorce”. A division bench consisted of Justice Elipe Dharma Rao and Justice M Venugopal, passed orders in an appeal filed by a husband, said, "The mental cruelty will continue to hurt a person throughout and any amount of healing words or healing touch would not wipe out the tears/scars, which continue to cause hurt and prick one's life." Further, the bench also said, “Filing of a criminal case, the man's detention in judicial custody for twenty-two days and his acquittal by the criminal court clearly constituted mental cruelty meted out to him, who admittedly would have undergone a traumatic experience and humiliation in the social circle. All these acts would clearly fall within the ambit and purview of cruelty.” The bench concluded its judgment, adding, “The husband was entitled to the relief of divorce”. The husband had filed a divorce petition in the family court on the plea that his wife often feud with him and his family members for trivial matters and frequently threatened for the commission of suicide until he gave his consent to separate

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from the joint family. He added that later on, his wife submitted a complaint for harassment for dowry and ill-treatment against him and six of his family members.\(^{303}\)

The Bombay High Court on July 01, 2014 upheld a divorce granted in 2004 on grounds that the wife had leveled allegations against her father-in-law, which she could not prove, due to which her act amounted to subjecting her husband to mental cruelty.\(^{304}\) While rejecting an appeal filed by the wife challenging the 2004 family court order, a division bench, comprising of Justice A. S. Oka and Justice A. S. Chandurkar said, "It is clear that if one party makes wild and reckless allegations as regards to the character of the other party or any near relative of the other party and such allegations remain unsubstantiated, they amount to causing cruelty within the meaning of the sections under the Hindu Marriage Act". The couple had married in 1998, but had been staying together for four years before their marriage. In 2003, the husband filed a divorce petition, and the wife filed an application seeking maintenance. The petition was then withdrawn by the husband and refilled in 2004. In the petition, the husband had alleged that his wife would often threaten to commit suicide and to undergo an abortion. Moreover, she had made wild and reckless allegations against her father-in-law, would not help her mother-in-law in household work and commented on his financial status. The father-in-law then filed an affidavit in the family court denying all allegations leveled by the woman. The husband examined his father in court, but he was not cross-examined by his daughter-in-law. The family court then granted a divorce to the couple, while rejecting the grounds for cruelty on the basis that the woman had been unable to prove the allegations; she had leveled against the father-in-law. It was on this basis that the high court upheld the divorce, adding that the since the charges were unproven, they amounted to mental cruelty towards the husband. As regards to maintenance, the court ordered the husband to continue to pay the woman an amount fixed by the family court, but granted both liberty to move court for an increase or reduction in the amount.

\(^{303}\) www.publication.samachar.com, Last visited on June 2, 2012.

In its latest judgment, the Supreme Court of India has also cleared the picture that women are misusing the laws on large scale. In *K. V. Prakash Babu v. State of Karnataka*,\(^{305}\) the bench of Justice Dipak Misra and Justice Amitava Roy while hearing an appeal, stated that “The instant appeals reveal a factual score that has the potentiality to shock a sensitive mind and a sincere heart, for the materials brought on record show how suspicion can corrode the rational perception of value of life and cloud the thought of a wife to such an extent, that would persuade her to commit suicide which entail more deaths, that is, of the alleged paramour, her mother and brother who being not able to emotionally cope up with the social humiliation, extinguish their life spark; and ultimately the situation ropes in the husband to face the charge for the offences punishable under Sections 302 and 498A of the Indian Penal Code (IPC) read with Section 3 of the Dowry Prohibition Act, 1961. As the facts would unveil, the husband gets acquitted for the offence under Section 302 IPC but convicted in respect of other two charges by the trial court. In appeal, his conviction under Section 3 of the 1961 Act is annulled but success does not come in his way as regards the offence under Section 498A IPC. And the misery does not end there since in the appeal preferred by the State, he is found guilty of the offence under Section 306 IPC and sentenced to suffer four years rigorous imprisonment and to pay a fine of Rs. 50,000/- to be given to the father of the victim with a default clause. In the course of our adumbration and analysis of facts, it will be uncurtained, how the seed of suspicion grows enormously and the rumours can bring social dishonor and constrain not so thick skinned people who have bound themselves to limitless sorrow by thinking it is best gift of God to man and choose to walk on the path of deliberate death. A sad incident, and a shocking narrative, but we must say, even at the beginning, the appellant-husband has to be acquitted regard being had to the evidence brought on record and the exposition of law in the field.”

Further, the bench, while referring the judgments in case of Ghusabhai Raisangbhai Chorasiya v. State of Gujarat,\(^{306}\) Giridhar Shankar Tawade v. State of Maharashtra,\(^{307}\) Gurnaib Singh v. State of Punjab\(^{308}\) and Pinakin Mahipatray Rawal v. State of Gujarat\(^{309}\), said that, “The concept of mental cruelty depends upon the milieu and the strata from which the persons come from and definitely has an individualistic perception regard being had to one's endurance and sensitivity. It is difficult to generalize but certainly it can be appreciated in a set of established facts. Extramarital relationship, per se, or as such would not come within the ambit of Section 498A IPC. It would be an illegal or immoral act, but other ingredients are to be brought home so that it would constitute a criminal offence. There is no denial of the fact that the cruelty need not be physical but a mental torture or abnormal behaviour that amounts to cruelty or harassment in a given case. It will depend upon the facts of the said case. To explicate, solely because the husband is involved in an extramarital relationship and there is some suspicion in the mind of wife, that cannot be regarded as mental cruelty which would attract mental cruelty for satisfying the ingredients of Section 306 IPC. We are absolutely conscious about the presumption engrafted under Section 113A of the Evidence Act. The said provision enables the Court to draw presumption in a particular fact situation when necessary ingredients in order to attract the provision are established. In this regard, we may reproduce a passage from Pinakin Mahipatray Rawal: Criminal law amendment and the rule of procedure was necessitated so as to meet the social challenge of saving the married woman from being ill-treated or forcing to commit suicide by the husband or his relatives, demanding dowry. Legislative mandate of the section is that when a woman commits suicide within seven years of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty as per the terms defined in Section 498A IPC, the court may presume having regard to all other circumstances of the case that such suicide has been abetted by the husband or

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\(^{307}\) 2002 (4) R.C.R. (Criminal) 589 : (2002) 5 SCC 177


such person. Though a presumption could be drawn, the burden of proof of showing that such an offence has been committed by the accused under Section 498A IPC is on the prosecution. We have reproduced the aforesaid passage only to highlight that the Court can take aid of the principles of the statutory presumption. In the instant case, as the evidence would limpidly show, the wife developed a sense of suspicion that her husband was going to the house of Ashwathamma in Village Chelur where he got involved with Deepa, the daughter of Ashwathamma. It has come on record through various witnesses that the people talked in the locality with regard to the involvement of the appellant with Deepa. It needs to be noted that Deepa, being not able to digest the humiliation, committed suicide. The mother and the brother of Deepa paved the same path. In such a situation, it is extremely difficult to hold that the prosecution has established the charge under Section 498A and the fact that the said cruelty induced the wife to commit suicide. It is manifest that the wife was guided by the rumour that aggravated her suspicion which has no boundary. The seed of suspicion planted in mind brought the eventual tragedy. But such an event will not constitute the offence or establish the guilt of the accused-appellant under Section 306 of the IPC. Having said that we intend to make it clear that if the husband gets involved in an extramarital affair that may not in all circumstances invite conviction under Section 306 of the IPC but definitely that can be a ground for divorce or other reliefs in a matrimonial dispute under other enactments. And we so clarify. The conviction under Sections 306 and 498A of the IPC is set aside. The appellant be set at liberty unless his detention is required in connection with any other case.”

5.1.5. Cruelty deemed against men

Of course, it is the court, which disposes of the case on the basis of the facts, evidences and arguments presented before it. It is also necessary to understand as what is deemed to be cruelty against men because the numbers of fake cases by women against men are increasing on daily basis in our society. There is no difference between the women, residing in urban or rural areas, as both are misusing their protective laws against men; and also against his relatives, in case of matrimonial matters, for their useless
benefits. In *Shri Mangesh Balkrushna Bhoir v. Sau. Leena Mangesh Bhoir*,\(^{310}\) Justice R. D. Dhanuka, of the High Court of Maharashtra, considered the judgment in *Vishwanath Sitaram Agrawal v. Sau. Sarla Vishwanath Agrawal*,\(^{311}\) wherein the Supreme Court stated that, “the wife had filed a complaint under section 498A of IPC against the husband, her father-in-law and other relatives, who had been acquitted in that case and the said decision of the acquittal had not been assailed before the higher forum, the allegations on that count were incorrect and untruthful and thus it could be unhesitatingly be stated that such an act creates mental trauma in the mind of the husband as no one would like to face a criminal proceeding of this nature on baseless and untruthful allegations. In this case, also the appellant and his family members have been acquitted since the allegations made in the complaint filed by the respondent and in the proceedings filed by the prosecution were not proved on merits. The said judgment of the learned Magistrate First class has admittedly been upheld by the learned Session Court and by this court. The said judgment, in my view, would squarely apply to the fact of this case.” Furthermore, Justice Dhanuka also observed the judgment and principles, laid down in *Manoj Madhukarrao Pate v. Sou. Vijaya Manoj Pate*,\(^{312}\) that, “the wife who had filed a false complaint against the husband and his family members under section 498A of IPC, and the husband and his family members having been acquitted, the husband was entitled to seek divorce on the ground of cruelty under section 13 (1) (ia) of the Hindu Marriage Act, 1955 against the wife.”

Hence, Justice Dhanuka in the present appeal stated that, “In my view, the order passed by the lower appellate Court is totally erroneous and contrary to law laid down by the Supreme Court and this Court holding that if the wife had filed a false case against the husband and his family members in which the appellant husband and his family members are acquitted, it amounted to cruelty and the husband on the said ground was

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\(^{310}\) 2016 (2) AIR Bom. R 173 : 2016 (2) ALL MR 551 : 2016 (2) DMC 671

\(^{311}\) AIR 2012 SC 2586

\(^{312}\) 2015 (1) ALL MR 95
entitled to seek divorce. The impugned order passed by the lower appellate Court thus deserves to be set aside.”

No man marries to have a divorce in future. The worst happens, when the man find himself entrapped into some wrong marriage relations.\textsuperscript{313} The husband, who is often being harassed by the wife, has to approach the court for the relief of divorce. It is the fact that in every family, there are both the good and bad relations. It is a common thing in every family that they can be seen to have a fight, blaming each other over some issueless things. But, it is also true that continuous harassment or inhuman treatment may turn into Physical or Mental Cruelty. Sometimes, the laws related to this cruelty differs, as there may be separate rules and regulations in separate states. To know best about the rules and regulations applicable over his state, one has to consult with local advocate or to have a study of the local Acts. Few examples of cruelty are as follows:

(b) Remaining away continuously from the marital house of husband, without any reason.
(c) Registering fake FIR against husband and his relatives for lowering down their reputation.
(d) Misbehaving with husband and his relatives.
(e) Forcing husband to remain away from his parents.
(f) Starting criminal proceedings against husband and his relatives with wrong intention.
(g) Lodging fake case of rape, voyeurism, stalking, sexual harassment at work place etc. against the man.
(h) Even registering fake case of dowry death or S.498a by the parents of the deceased wife against the husband and his relatives.
(i) Claiming share in the self-acquired property of the parents of the husband, which is not originally so.

\textsuperscript{313} \url{www.family-law.lawyers.com}, Last visited on Feb 19, 2016.
Now-a-days, wives have the opinion of separating from their matrimonial home and her husband, and finish their family life after marriage. They are executing their views in practical. It is improbable to prove by the husband that his wife is doing so intentionally, because all the laws are tilted towards the wife. These laws are gender biased. In almost cases, wives are adamant to stay at their parental house and disagree to return to their matrimonial house. The strange thing is that the parents of the wives are supporting them in such attitude. The parents of the wives are also loosing the moral character and they think that their daughter will not have to beg before any person, as they can extort money from their husbands through the legal modes. Parents assist their daughters in filing and fighting the suits, rather they should have to teach their daughters to join their husbands and live a peaceful life.

In many cases, wife always keep threatening her husband to commit suicide, if her both justified and unjustified demands are not fulfilled. The husband has no other option to admit his all demands, and get them fulfilled, whether he is in the capacity to bear the expenses of those demands or not. If he does not fulfill her demands, then he knows better that the consequences will be worst for him and also for his family members, especially for his parents and brothers and sisters. He knows that she gets lodging a FIR against him and his family members, which will destruct their reputation in just few seconds. The laws will also not available to support him and assist him to disprove his guilt, so that he can show before the court the original situation. She also uses this method of threatening in making omission from the daily routine household works. She knows that the law and the court will assist him in every situation, and her false statement will be considered by the court against her husband. She just has to initiate the legal proceedings against her husband, and sit calmly watching that how her husband fight for his whole life to prove that he has done nothing wrong with his wife; and even after doing so, what will be the result. At last, he will loose the case, and will has to spent his rest of the life in some corner of a dark jail.

In the eyes of law, accused is presumed to be innocent, unless proved guilty. It is the prosecution, who has to prove his case beyond reasonable doubts. Then the turn of defendant comes and he has to defend the charges, leveled against him and also to
disprove the allegations. But, one can see the biasness of the law, that in case of matrimonial disputes, if the wife get lodged the FIR, from that moment the husband and his relatives are mostly taken into custody of police for further investigation. The initial burden of proof is also on the accused itself to prove that he has not committed the wrong, claimed against him. If he fails, then he should be ready to face the penalizing procedure. Thanks to the Apex Court that it has given the guidelines to the State authority and to the police officials that they shall have to make prima facie investigation before making arrest, whether there is any need to take the husband and his relative into the custody or not. They should be arrested only if there is a need for doing so. The names of the relatives, who are living far away from the matrimonial home of the wife, should be struck off from the FIR as far as possible.

Bombay High Court has also given some relief to the community of harassed husbands from the fake complaints of wives. Justice R. D. Dhanuka of Bombay High Court stated in Shri Mangesh Balkrushna Bhoir v. Sau. Leena Mangesh Bhoir that if some wife get registered a fake FIR her husband and in-laws, and the husband and in-laws of the lady get acquittal from the charges, leveled against them; then in such case, the act and conduct of registering fake FIR against her husband and in-laws will be treated as cruelty against the husband. Further, such husband has the right to submit the divorce petition on the ground of such cruelty.

Unfortunate, to say that the institution of marriage can be easily dissolved now-a-days. The gravity of the problem is up to such an extent that the Apex Court had to interfere into the matter. In the case of Mrs. Deepalakshmi Saehia Zingade v. Sachi Rameshrao Zingaden, the wife lodged a fake complaint against her husband that he had an extra-marital affair. Then, she failed to prove such an affair exist or existed. The court bluntly said that she will have to lose the case. In addition to this, the court treated her act as a cruelty towards the husband.

314 AIR 2010 Bom 16
The judgments of Bombay High Court and the Apex Court has done a great work to reform the situation of the misuse of protective laws by women against men. The judgment is totally justified in the present situation and should be followed all over the country. So, that the noble institution of the family can be saved from degrading and losing its existence form our society.

5.1.6. Victimization of husband through cruelty

Marriage is not just a contract, rather it is a treated as a sacrament under the law in India. Our law relating to marriage was derived from Manu, the ancient lawmaker. The basis of the family and society is the marriage. This is the marriage in any society, which keeps bond between physical, psychological, mental, religious and social aspects among human beings. That’s why, it is hard to break such marriage in India, once created. The practices of speedy divorce are not in India. Here, the procedure is very typical and takes a long time to get finalized the issue. In Shikha v. Jasvinder Singh and another, the bench, comprising of Justice S. S. Saron and Justice Navita Singh, of the High Court of Punjab and Haryana, while deciding an appeal against the order of the trial court for divorce under s. 13 of The Hindu Marriage Act, 1955, observed that, “Dharam Singh, father of the appellant lady, categorically stated that his daughter did not know Sahab Singh son of Rameshwar, resident of Khanpur, though he himself knew the man but had no relations with him. However, the appellant, in her cross-examination, said that she knew Sahab Singh son of Rameshwar, resident of Khanpur, for the last 14-15 years. The father and daughter were not thus sure as to what stand they wanted to take. The appellant also admitted her signatures on the statement, made before the police though she said that the police had not recorded any such statement and she also admitted her signatures on the Panchayati Faisla. In the Panchayati Faisla, she had stated that she was responsible for her conduct and she was the master of her own wish. She, however,
stated that a compromise had taken place in the complaint, she made before the police. In her statement, made before the police, she stated that she was living separately with her children in a rented accommodation and she did not want to live in her matrimonial home. Appellant's father, Dharam Singh made a statement in which he too stated that his daughter was living separately in a rented accommodation and that she was not in control of her husband and she did not listen to him and rather she did not listen to anybody and she will be responsible for her conduct. Another aspect worth mentioning is that the appellant had filed a petition under Section 125, Cr.P.C. claiming maintenance for herself and her son. In that petition as well, the husband of the appellant lady mentioned about the adulterous life of the appellant and the Court came to the conclusion from the evidence led by the parties that it was the appellant who had willfully deserted her husband and, therefore, she had no right to claim maintenance. Relief of interim maintenance was declined. It is admitted by the learned counsel for the appellant that the petition under Section 125 Cr.P.C. has been dismissed. From the detailed discussion, it is clear that there is no infirmity in the order passed by the learned Additional District Judge, Kurukshetra, and there is no merit in the present appeal. The appeal is dismissed.”

In addition to this, In Jwala Prasad v. State of Chhatisgarh & Ors.,\textsuperscript{317} an appeal was made against the order of the High Court of Chhatisgarh, in which the appellant was awarded with the punishment of rigorous imprisonment of 10 years in a case under s. 304-B and 498A, I.P.C. The bench, comprising of Justice Pinaki Chandra Ghose and Justice Amitava Roy, of Supreme Court of India held that, “the prosecution has no sufficient evidence to prove the offences against the appellant that he had committed cruelty and harassment against the deceased lady before her death for the want of dowry. The lower courts had awarded punishment against the appellant mere on inferences, and not on the basis of evidences. There is no reason before the bench to uphold the judgment of the High Court of Chhatisgarh, convicting the appellant. So, the order of conviction of the High Court is ordered to be set aside and the appellant is acquitted from the charges leveled against him.”

\textsuperscript{317} 2016 (3) Cri. CC 689 : 2016 (3) ACJ (SC) 121
It is unfortunate to say that the particular persons are using the law in wrong way, for which it was made particularly. Now the husband is suffering the various modes of cruelty in various houses, opposite to the earlier view that the only the wife are sufferer of the cruelty. Now, the situation and thinking of persons have been changed totally. Now, the women are generally misusing the support of special laws for taking their revenge with their husbands and in-laws. A large number of cases pending in various courts and fresh filing of cases under s. 498A, I.P.C. at such huge quantity, speak itself about the position of misuse of the special laws. The ground of cruelty for divorce under various laws is one of those weapons in the hands of wives, which they are misusing against the husbands.

5.2. No rights of men under the Domestic Violence Act, 2005

Gone are the days, when women were tortured by men. Now the time is for domination of women over men. The former is harassing the latter for their self-interest, forgetting the actual purpose of those laws. The Domestic Violence Act singles out men as perpetrators of domestic violence and assumes that only women are victims. According to this law, only a woman can file a complaint against her male partner. The fact is that it has been comprehensively proven in numerous studies that women are no less abusive as men in intimate relationships. Giving such sweeping legal powers to women, while withholding protection to male victims, is tantamount to systematic legal victimization of men. In the western world, the domestic violence laws are gender neutral and provide protection to the victims, both men and women. The fact that the Indian version explicitly prohibits any male victim to seek relief under this law defies all logic and is beyond comprehension. In Basti Ram v. State of Haryana, Justice Daya Chaudhary while deciding the appeal, stated that, “In the present case, the deceased wife committed suicide after a period of more than 11 years. The presumption under Section 113A of the Indian Evidence Act, was not available to the prosecution. Prosecution was to prove its own case by leading cogent evidence. The word 'suicide' in itself is nowhere defined in the Indian Penal

Code. Sui' means 'self' and 'cide' means 'killing'. From meaning itself, it shows that it is a killing of self. It can be said that in case, a person commits suicide, it is committed by himself, irrespective of the means employed by him. The ingredients for abetment for suicide under s. 107, I.P.C. would be satisfied only if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Under Sections 107 and 109, I.P.C., Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. In order to convict a person under Section 306, I.P.C., there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide. The marriage of accused was solemnized with (Deceased) about 11 years prior to the alleged occurrence. During autopsy, no injury was found on the person of deceased. Neither any specific instance of demand of dowry or harassment nor any specific role of the accused was mentioned by the complainant in his statement. Judgment of acquittal upheld.

The court has relied upon principles and judgments in various cases, decided by different high courts and the apex court. The court has taken into consideration the judgment of the supreme court in State of West Bengal v. Orilal Jaiswal and another, in which it held that “the Courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charge of abetting the offence of suicide should be found guilty.”

319 1994 (3) RCR (Crl.) 186
The second significant flaw in this law is that it lends itself to such easy misuse that women will find it hard to resist the temptation to “teach a lesson” to their male relatives and will file frivolous and false cases. In Banarsi Dass & Ors v. State of Haryana, the bench, comprising of Justice Kurian Joseph and Justice Abhay Manohar Sapre, of the Supreme Court of India, heard the arguments on the facts of the case that, “The deceased Chander Kalan was the sister of Mahabir and Satpal and the wife of accused Ramesh Kumar. The marriage was on 14.04.1995. The allegation is that on account of non-payment of the dowry as demanded by the husband and in-laws, she was being ill-treated. One such incident was on 01.01.1997 and she lost a couple of teeth. There was a *Panchayat* and the matter was compromised and therefore, the case then registered under Section 498A read with Section 323 of IPC was not pursued. It is alleged that even thereafter the attitude of the in-laws did not change. On 18.06.1998, it is alleged that she was beaten and pushed out of the house and at around 02.00 p.m., the accused sprinkled kerosene on her and set her on fire. She was admitted in the hospital by 05.00 p.m. and examined by Dr. S. D. Goyal, who found that Chander Kalan suffered burn injuries which were approximately 45%. On his request, ASI Jagdeep Singh recorded dying declaration. Thereafter, she was admitted in the hospital of Dr. Soni on 19.06.1998 and, on 17.07.1998, she was further shifted to the hospital of Dr. Subhash Verma, where she died on 04.08.1998.”

The bench found in the present case that, “The incident occurred on 18.06.1998 whereas the death is on 04.08.1998. Dying declaration was recorded on 18.06.1998 itself. At the time of recording of the statement, the condition of the patient no doubt was very stable and she was in a very good state of mind as recorded by the doctor. The burn injury was only 40-45% of the body and, according to doctor 40-45% burns is not fatal and such a patient can be saved if given proper treatment. It has also come out in evidence that the death is not caused by the burns but because of septicaemia, an infection on account of improper management of the wounds. It is fairly clear that the patient on 18.06.1998 was not apprehending death, not merely because she lived for more than seven weeks after the incident but because of the nature of the burn injuries which we have referred to above. The other major issue is on applicability of Section 304B of IPC. In order to attract Section 304B of IPC, one of the essential ingredients is that death of the

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married woman should be caused by burns or bodily injury or that she should have died otherwise than under normal circumstances. In the instant case, it has clearly come out in evidence that the death is not caused by the burns: it is caused by septicaemia on account of improper management of wounds. The parts of the body affected by the burns would clearly show that the burns are not caused on account of somebody pouring kerosene on her body and setting her on fire. As can be seen from the medical evidence and the post-mortem report, the injuries are on front side of the body from face up to the umbilicus. Her long hair was not burnt at all.”

After hearing the arguments and considering the observation made by the same court in Basappa v. State of Karnataka, the bench reached on the conclusion that, “In the result, the conviction under Section 304B of IPC in respect of all the appellants is set aside. The conviction under Section 498A of IPC in respect of the accused Rajesh is set aside. The conviction under Section 498A of IPC is maintained in respect of accused/appellant nos. 1, 2, 3 and 5. Accused/appellant nos. 1 and 5 are no more and the appeal as against them is abated. The sentence of accused/appellant nos. 2 and 3 is limited to the period already undergone.”

A similar trend is already being observed in the case of anti-dowry law (S.498-A, IPC), which is being misused to such an extent that the Supreme Court has termed it Legal Terrorism. Under the pretext of preventing economic abuse of women, “this law legalizes the extortion of money by women. If she demands any amount of money from him, for any reason whatsoever, he is legally bound to pay that amount in full, failing which he can be imprisoned. The same rule doesn't apply the other way. She retains the right to the residence. This is a very convenient means of getting control of the house regardless of whether she has any legal right on the property. If she decides not to cook and wishes to eat out in a restaurant every day, he cannot afford not to oblige, lest he invites the provisions of Domestic Violence Act for not providing food, for which he could be jailed. If she has an affair and he tries to prevent her from meeting her lover, he could be punished under the Domestic Violence Act, as he is preventing her from meeting someone. He can be booked under the Domestic Violence Act, if she feels that she has been insulted.” Insult is a relative term, which is totally left to her

321 (2014) 5 SCC 154
discretion. Interestingly, if she insults and abuses him verbally or even physically, he does not have any legal recourse in this law.

These are just some of the ways, in which women can exploit men in a legally permitted manner. The fact that the complaint by a woman will be treated, prima facie, as “true and genuine” opens up a whole new realm of possibilities, where innocent men will be accused and implicated in false cases, just because they refuse to give in to her unreasonable demands. In **Bijender and others v. State of Haryana**, the bench, comprising of Justice Sudhansu Jyoti Mukhopadhaya and Justice S. A. Bobde, of the Supreme Court of India, stated that, “The trial court was wrong in not relying on the statements given by the doctors in the case proceedings, only on the reason that both the doctors were unable to tell the address and name of the village of deceased lady Bimala during their examination before the trial court. SC said that generally a doctor only mentions the name, age, sex, disease and medicine in the prescription slip of a patient. There is no trend to write the address and name of the village or city of the patient in the prescription slip. Trial Court should have to rely on the averments of both the doctors, while deciding the case. Further, there were no reasons found by the Supreme Court in the statements of Ram Phal, Guddi and one PW, namely Dhup Singh, where it had shown that all the accused persons had tortured Bimala for the want of dowry and killed her. Guddi stated in her statement that she and Bimala were usually tortured and taunted by her mother-in-law and sister-in-law for bringing insufficient dowry. Dhup Singh stated that both the accused Ajit and Bijender promised before the contemporary sarpanch that they shall not to harass Bimala and Guddi. Ram Phal himself had stated only that two years before, both the accused Ajit and Bijender came to his home to ask for Rs. 50,000, so that they could buy a tempo. The court said that when there are no corroborative evidences available, it can’t be said that such demand for Rs. 50,000 was not lawful. It is usual trend in our society that a person takes financial help from his relatives for buying any property. This help can’t be said to be an unlawful demand. Ram Phal had no where stated that the accused persons tortured his daughter, as they did not receive Rs. 50,000 two years before from Ram Phal. Hence, in the present case, SC held that the accused persons has the benefit of doubt, as the prosecution has not succeeded to prove his case beyond doubt, presenting

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the evidences of commission of the offence under S. 498A, I.P.C. The judgment of the trial court, Jhajjar and the High Court of Punjab and Haryana is set aside and the accused persons are acquitted from the charged, leveled against them under s. 498A, 304-B and 201, I.P.C.”

In Lakhvir Singh v. Mohinder Kaur and others, Justice Daya Chaudhary of High Court of Punjab and Haryana, held that, “From the findings recorded by the trial Court, it is apparent that the prosecution has failed to prove the allegations against accused persons under s. 363 and 366, I.P.C. and accordingly, they were acquitted of the charges framed against them by the trial Court. Learned counsel for the applicant/complainant has not been able to show any evidence regarding involvement of accused/respondents in the offences and any illegality even in the findings recorded by the trial Court. In view of what has been discussed above, there is no merit in the contentions raised by learned counsel for the applicant/complainant. Hence, the accused persons are acquitted from the allegations under s. 363 and 366, I.P.C.” In Kashmiri Lal v. State of Haryana, the bench, comprising of Justice M. Jeyapaul and Justice Darshan Singh, of High Court of Punjab and Haryana High Court, while relying on the orders in Ashok Kumar v. State of Haryana, Bachni Devi v. State of Haryana through Secretary, Home Department, Balkar Singh v. State of Punjab stated that, “No fine can be imposed in case of conviction for offence punishable under Section 304-B, Indian Penal Code. Therefore, sentence of fine imposed by rial Court liable to be set aside.”

The third major flaw in this law is that, “It provides an all-encompassing definition of domestic violence and some terms (insults, name calling) are extremely subjective. The radical feminists claim that 70% of women in India face domestic violence, which comes as no surprise, as even an insult is considered domestic violence. This law strikes at the very foundation of marriage by promoting intolerance and litigation for petty domestic disputes. It is universally

323 2016 (3) R.C.R. (Criminal) 622: 2016 (3) Cri.CC 802
324 2016 (5) RCR (Criminal) 753 : 2016 (3) Cri.CC 87
325 (2011) 1 SCC (Criminal) 266
326 2011 (1) RCR (Criminal) 868
327 2011 (2) RCR (Criminal) 266
recognized that from time to time differences arise in a marriage and sometimes people, both men and women, behave in hurtful ways towards each other. Most people, though, are able to work them out and lead a more or less happy life with their loved one. However, this law makes it very easy to escalate the domestic problems in daily life to such a level that it eventually leads to a breakdown in marriage. Once a man has been accused of domestic violence for a something relatively minor (insult), while he might have been subjected to the same treatment from her, he will perpetually feel threatened by his partner and that is the beginning of the end. This law will lead to more divorces, broken homes and the children will pay the ultimate price by getting deprived of a pleasant childhood. There are degrees of domestic violence and not all conflicts in a relationship can be termed as domestic violence.” This law trivializes the issue of domestic violence by including minor differences in its realm and by explicitly denying protection to half of the population. When a person, who has not committed any crime, begins to fear punishment under the provisions of a law, it is not a law anymore – it is state sponsored terrorism.

5.2.1. Arguments and their rebuttals:

Argument no. 01 - The number of misuses will be very low OR every law is misused.

Rebuttal - The objective of any law should be to punish the guilty and protect the innocent. The persecution of innocents cannot be justified in any circumstances. As is the case with S.498-A, this law will be heavily misused in urban India.

Argument no. 02 - If she is happy, then why will she file a complaint.

Rebuttal - So, the man exists at the mercy of the woman. If the wife wants to kick out old parents from home or wants to pursue an affair and should the man dare to object, she can get him incarcerated with alacrity. Any law that forcefully subjects a section of a society to conduct as per the pleasure of another section is deemed oppressive and should be vehemently opposed.

Argument no. 03 - There are other provisions to deal with the misuse of this law.
Rebuttal - The fact is that there are other legal provisions to deal with domestic violence as well. If a strict law is made for a specific purpose, then the provisions for dealing with its misuse should be in the law itself.

5.3. Exploitation of men in the courts and its effect on fresher advocates

When the point of women rights arises, then what they demand? No doubt, the right of equality. But, while demanding for equal rights, if they behave like the perpetrators, then what will be the position? This is happening in some matters. There is no doubt that in some places, especially in villages, the position of women is very degraded and anything done for providing their rights, will be less for them. But, the number of such women is also increasing, who are misusing the laws, available to them for the protection of their rights. The law is also doing nothing, except to act as a dumb.

In Sandeep Kaur v. State of Punjab and another,\(^3\) the wife had made a complaint under the Protection of Women from Domestic Violence Act, 2005 against her husband, by which she got an order in her favour of getting two rooms in the house of her husband, for living separately. On Sep. 24, 2013, she lodged a fake F.I.R. against her husband under s. 376-B and s. 506, I.P.C. at Police Station Division No.8, Jalandhar (Punjab). The trial court struck off the charges of the respondent husband under s. 376-B and s. 506, I.P.C. and acquit him by giving benefit of doubt. In an appeal, the Double bench, of Justice T. P. S .Mann and Justice Ramendra Jain, of High Court of Punjab and Haryana, on Jan. 11, 2016 observed that, “there is difference between the initial version of the appellant wife regarding the date of offence and her statement in her cross examination. She did not tell about the incident for around 8 days to any person. The above conduct of the appellant wife is highly improbable and unnatural because huge litigation i.e. divorce petition, proceedings under Section 125 Cr.P.C. as well as the complaint under the Act was going on between the appellant wife and respondent husband. If respondent husband had got opened the door of her room on the pretext of illness of their baby, in such an eventuality, it cannot be expected from a man of prudence that she will not raise any grouse or

disclose her forcible rape by respondent husband to anyone. It is unexplained on record that she was forcibly raped by him and why the appellant wife kept on opening the door for respondent husband on the subsequent dates i.e. from 15.09.2013 to 20.09.2013, more particularly when relations were strained in between them and their children were also not staying with her and she kept on allowing respondent husband to commit rape with her against her wishes. Admittedly, on earlier occasion also the appellant wife got registered false FIR No. 300 dated 27.10.2009 under Sections 376/498A/120B, I.P.C. against respondent husband and his parents in which they were acquitted. Hence, the above conduct of appellant wife also puts a dent in the prosecution story. Even otherwise, F.I.R., in the present case, was lodged belatedly by the complainant wife, because as per her complaint, respondent husband had committed rape with her on 14.07.2013, but F.I.R. in the instant case was lodged on 24.09.2013. Even if, it is presumed that the dates of occurrences i.e. 14.07.2013 to 24.07.2013 were mentioned wrongly, in that eventuality, there is no explanation on the file why the prosecutrix kept mum for four days and got lodged the F.I.R. on 24.09.2013. Admittedly, the respondent is the husband of appellant wife and their relations were not healthy. Thus, it can safely be presumed that the appellant wife for taking revenge got lodged the present false FIR against respondent husband. The appellant in her cross examination also admitted that tenants were also residing on the upper floor of the same house in which she was residing. Thus, it is quite unnatural and improbable that she does not raise any hue or cry or to inform anyone of them about her rape by respondent husband. More particularly, when she was free to move anywhere without any restriction from any corner. Since, there was no restriction upon her to go anywhere so it was very easy for her to go to the police station to complain about her rape by respondent husband, but she did not do so which requires to draw an adverse inference against her that things did not happen in the manner as narrated by her. In cross examination, the appellant wife also deposed that after the occurrence, respondent husband visited her on last Friday, as he usually comes to her after a week or ten days. Her above deposition clearly proves beyond doubt that respondent husband was usually visiting the appellant wife even after the occurrence, but she did not take any action against him, which means that with her consent, alleged intercourse was committed by respondent husband with her. Hence, the order of the trial court was upheld by the double bench also, and the respondent husband was rightly acquitted from the charges under s. 376-B and s. 506, I.P.C.”
The fresher, who have just completed their course of LL.B., have bad experience, when they into the compound of the courts.\textsuperscript{329} There they felt that they do not want to do the wrong things and without doing wrong things, they cannot their practice as an advocate. Even their parents advice them to become practical, as now they shall have to work in the courts, rather than to study the law books, as they had to do during their course of LL.B. The reason of their bad experience during the training period is the type of client, their senior lawyers deal with. Sometimes well educated and modern looking woman come to his senior lawyer, who want to file a case under the Domestic Violence Act against her husband and in-laws. Further, she also requests to the senior lawyer that she wants to see her husband and in-laws behind the bars on any cost. Fresher wonders, when the lady client says to the senior lawyer that she will make some marks of burns of cigarette by branding herself for fabricating the evidences, if the latter wants. The soul of a fresher shivers to see the extent of the manipulations made by the lady clients for entangling her husband and in-laws in false cases. Same are the cases, in which any girl flees away with her lover. When the police or the parents of the girl trace out the both, then only the lover boy go to the jail and not the girl, instead of the fact that both flee away with their own consent.

It is wrong to say that the laws are wrong, rather the use of laws by women are wrong in many cases, when those are fake and without any ground. Not only special rights of women are misused, but the special laws for women are also misused by them. Something should be done so that the innocent will not be punished. The courts itself admitted many times that often women file false cases in vengeance and the laws enacted for the protection of women rights are becoming the weapons of harassment of innocent men. It is said in history that once there was an era, in which the power was with women. Then the time changed, and power came in the hands of men. Today, when women are getting the power of law, they are repeating the history by misusing that power over men. Lenin said that power corrupts man and absolute power corrupts absolutely. The person, who has the power, becomes the perpetrator and losses all the values regarding other persons. Can the equality comes like this or this circle rotates like this ever, in which sometime men suffer, sometime women suffer?

\textsuperscript{329} [www.navbharattimes.indiatimes.com](http://www.navbharattimes.indiatimes.com), Last visited at March 04, 2014.
5.4. Marriage is making men “accused” in India

Because Shoaib was a celebrity, he still faced little harassment and even his harassment got widespread publicity. Had it been some common man, he would have been thrown behind the bars and no one would have bothered about him and his family even. As per National Crime Records Bureau in the year 2015 alone, 39,223 women and 1,33,457 men lost their civil liberties as they were arrested under s. 498A, I.P.C. without trial or investigation. Taking into account 5 years from 2011 – 2015, a total of 1,64,753 women and 5,53,745 men have undergone a similar ordeal. All this goes on because not only marriage is a crime for Indian men; the Indian government is not taking any steps to restrain the abuse of humanity perpetrated by the notorious s. 498A, I.P.C. Indian government is directly responsible for such inhuman treatment of men in India. The Supreme Court of India warned against s. 498A I.P.C. terming it as “Legal Terrorism” way back on the 20th of July 2005. Close to eleven years have passed and the Indian Govt. is sleeping over it.

Men, who do not succumb to the blackmail and extortion, often get jailed along with their parents, brothers and sisters. In 2015, around 37,450 women and about 1,45,000 men were jailed under S. 498-A I.P.C. Often, additional sections of IPC were put on them later to force them into exorbitant out of court settlements. This has to end and family courts have to take over. Former President Pratibha Patil said, “Instances exist, whereby protective legal provisions for the benefit of women have been subjected to distortion and misuse to wreak petty vengeance and to settle scores. It is unfortunate if laws meant to protect women get abused as instruments of oppression.”

The solution for Government is to:

A. Scrap S. 498-A I.P.C.
B. Decriminalize marriage disputes and put an end to involvement of police in counseling or monetary settlement of marital disputes.

Harassment & Discrimination, S. Appleby Gavin
C. Stop using of Crime against Women (CAW) cells as Marriage Counseling centers.
D. Refer marriage disputes to Family Courts.

5.4.1. Divorce is much interested by women in India

Women take first step in large number of cases of divorce. This research was made by Michael J Rosenfeld, an Associate Professor of Sociology of Stanford University, and was denied by the many Indians by making excuse that such trend was in western countries or merely limited to the working women in India. He made research by survey over 2262 Indians, who were between the age group of 19 and 94 and had their partners. He found till Aug., 2015 that out of those 2262, 371 persons took divorce from their partners, and the shocking point was that out of those 371 cases, in 69% cases women took the first step towards divorce. Generally, in divorce cases, women file a criminal case of torture and cruelty against husbands. The reasons behind the scene are many, like financial independence, low tolerance power, family support from the side of women, women employment and last but not the least is that the concept of divorce has changed and it is not treated as a taboo.

In most of the cases, where women take the first step towards divorce, the woman has an extramarital affair, outside her married life. Due to that affair, she wants to break her prior marriage. On more reason for the rising number of divorces by the women is that traditional values are losing their existence in the present family system. Parents, who have the only girl child, give extreme support to their daughter in taking divorce. Earlier women were being exploited by men, but in modern era, women started exploiting men by misusing the laws, which are made for the protection of the former, as the proletarians exploit the capitalists now-a-days.

5.4.2. TV actor, Shobhit Attray, was implicated in the case of dowry demand

Television actor Shobhit Attray, who had worked in shows like “Na Aana Is Des Laado” and “House wife Hai... Sab Jaanti Hai”, was arrested in June 2014 under multiple charges filed by his wife Nisha. Shobhit, who was released on bail on 06th June, 2014, was booked under section 406 (Criminal Breach of Trust), section 498A (Husband or relative of husband of a woman subjecting her to cruelty), section 506 (Criminal Intimidation) and section 354 (Assault or Criminal Force to woman with intent to outrage her modesty) of the IPC. The actor had received support from his industry friends, who claim that the allegations were false, and they had even created a Facebook group “We Stand By Shobhit Attray” to garner support for him. Shobhit, himself, maintained that his wife had misused the law and framed him in a false case. While, his wife Nisha claimed that she had subjected to a lot of harassment by her in-laws.

There were two sides of the story. The story followed as:

SIDE A – According to Nisha, the father of Shobhit abused her and refused to accept her child

As per Nisha, she and Shobhit got married on January 30, 2012. They were living in Meerut after their marriage. And since April 2013, she was been in her parental home. Even though, Shobhit’s mother didn't say anything to her, Shobhit’s father (who had also been accused in the case) used to say, “Tum Shobhit ke laayak nahi ho. Humein tumse achhi ladki mil sakti thi.” (You are not suited to Shobhit. We may get better girl than you.) Shobhit was much obedient to his father and they used to listen only him. Shobhit would occasionally visit in two-three months to meet her, and that too when his father would call him. She used to tell Shobhit that she was being subjected to violence, but he asked her to keep patience. In December, 2012, her father-in-law fought with him and she told Shobhit about the same. So, in January 2013, he took her to Mumbai with him since she was pregnant at that time. They stayed in Malad in a rented accommodation, but later moved to his sister's house in Santacruz at her and her husband's insistence (Shilpa and Amit Sharma, also accused in the case).

Shilpa and Amit Sharma also created several misunderstandings between them. According to Nisha, “Unke jeejaji ki bhi mujh par buri nazar thi.” (His brother-in-law had also bad eyes on her.) She didn't wish to elaborate on it. In April 2013, Shobhit had to go to Delhi as one of his friend’s father had expired. During that time, Shilpa and Amit Sharma threw her out of their house. Nisha was seven months pregnant at that time. As per the statement of Shilpa and Amit, Nisha went to her parental home without informing them. But, that was wrong statement. The ticket of Nisha was generated through the account of Amit himself. No girl goes to her parental home in such a way, as Amit and Shilpa were saying. A son was born to Nisha and Shobhit in June 2013, and when she informed her in-laws, they said Shobhit was busy shooting, but would come to meet her soon. But, he never showed up. In August 2013, she went to Shobhit's home in Meerut with her kid, along with some of the family members. Her father abused her and even refused to accept that the child belonged to their family. She even said that they might get a DNA test done, but they refused and asked her for Rs. 10 lakhs. It was not possible for her to pay such a huge amount. Her family used to send gifts on every festival, and they would always say, “That was not as per their standard. Instead of that, they should give the money, so that they would purchase themselves”. They would always taunt me, “we have spent Rs. 2 crores on the marriage”. At that time, they said that Shobhit was in Malaysia shooting for his film and when he would come back, they would talk, but he never called. Jyoti (Makker, TV actor and Shobhit's friend), used to tell me to file a complaint against him. Later, she was speaking against me. After waiting for so many months, Nisha finally filed a complaint.

Nisha also thinks that Shobhit was cheating on her. When she spent 10-15 days in her in-laws house, her father-in-law said that it would be better, if Shobhit would be married to one friend of Shobhit, whom her father-in-law knew. She even suspected him of having an affair, but he always assured me it wasn't true. Even when she was in Mumbai, she heard that he was involved with someone. When she asked him, he said, “It is common to heard such talks for an actor in Mumbai. Don’t mind it.” I trusted his word."
SIDE B – According to Shobhit, even if we spent two crore for the wedding, why would we demand ten lakh?

As per Shobhit, Nisha lied to him about her educational qualifications, but he was still ready to forgive her. Our laws are in favour of women, and many women are misusing it to their advantage. Nisha was herself saying that her family had spent two crores for the wedding. Even if they had spent that big an amount, why would they asked Nisha for 10 lakh? He don't know why she is saying that he refused to accept his son, rather he was accepting that the child with Nisha was his son. Even his dad never refused to accept him. He hadn't seen her son ever since he was born. Nisha got him along when she came to meet him in the lock up and tried to emotionally blackmail him, saying that we should live together again. He saw his son first time, when the latter was just one year old. They never let him meet his son. They had the view that as the child was male, so the family of Shobhit would come on their knees. The fact was, they lied about Nisha being a B.Tech. She got a compartment in Class XII, and when I asked her about the same, she said that she had passed in those subjects afterwards. I was ready to forgive her, but she never accepted that she lied. A year after their marriage, his father asked her for her degree. He wanted to open an engineering college in her name and asked for her degree, but she never gave it.

In April 2013, his friend's father passed away in Delhi and he came down because his friend was abroad. He told her that they would resolve their differences after meeting in Delhi. But, she went away to Chandigarh, where one of her brothers stayed. He was halfway to the airport, when he came to learn about that. He was concerned about her since she was seven months pregnant at that time, so I spoke to her brother, who said she was angry. After that, they spoke and she asked him, “What do you want?” He asked her to come back, but she didn't. If he had affair before the marriage, then he would had married to that lady. If he want to take huge dowry in the marriage, then he would had married to some rich girl. They accused his entire family. The brother-in-law of Shobhit was a respectable bank officer, and his sister was 14 years elder to him. They treated him like their son, so they would obviously treated Nisha like they treated him. It was in
August that Nisha and her family said that they wanted to meet for reconciliation. So his father said, “If Nisha is coming, then we will call Shobhit from Mumbai”. Nisha claimed that Shobhit was in Malaysia, but he said that he had gone to Malaysia later and he was shooting in Mumbai. Nisha's family said that she won't be accompanying them but she came with other members of the family. His father got a little angry and said that his son should have been born in Meerut and not in Nisha's mother's home. It was decided that there would be a meeting in 10 days to sort out the issue, but they again said that Nisha was pursuing her studies. She alleged that she would faint, while making food for his family. In answer to that allegation, he said that they had two maids, to whom Nisha made just orders. In Mumbai, he asked her to keep a maid, but she, being a fan of shows like Savdhaan India and Crime Patrol, said that she would manage the work as maids could not be trusted, just like the cases in those shows portrayed. Opposite to that, she said that he didn't let her hire a maid. He was in jail and he met many people there, who revealed that they had been implicated in false cases. He had shot jail sequences for my shows, but there was a lot of difference between *filmi* and real jail. Truth would soon come out. Lastly, he decided not to get back with her now.

In one more incident, “Indian Tennis star, Leander Paes had rift with his live-in partner, Rhea Pillai, in relation to his daughter. Paes alleged that Rhea might hurt his eight year old daughter and might also take her to foreign. Paes had filed a criminal complaint against her in the Mumbai police on 03rd May, 2014. He had also alleged that due to misbehaviour of Rhea, nurturing of his daughter was wrongly affecting continuously. On 26 April, 2014, Paes had to go to President House for receiving Padam Bhusan award and he wanted that his daughter would also accompany him up to Delhi. But, it is said that Rhea did not allow his daughter to go with Paes. He was very upset after that incident and met with police for the protection of his daughter.”

A man, named Manchikanti Bhavani Prasad, had committed suicide at his house in Laxminagar in Marredpally on July 20, 2014 after a dowry harassment case was registered

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333 [www.readwhere.com](http://www.readwhere.com), Last visited on May 05, 2014.
against him. The victim, aged 35 years, was a trader, and had frequent disputes with his wife over petty issues. Just before that incident, she left house, and lodged a case for dowry harassment against him. The police had registered a case. Being depressed and humiliated, Bhavani Prasad hanged himself to death at his house in the early hours of the morning. The cops reached the spot after being alerted and examined the scene. On the base of a complaint lodged by Prasad’s family, a case under Section 306, IPC (Abetment to suicide) was registered against his wife.

Dhanrua Police (Bihar) got released 10 years old Bablu son of Ajay Yadav, who was kidnapped with the intention of marrying, but till that time, his marriage had done with eight years elder lady. Bablu was the single child of his parents. He had four bigah land in his own name. He was playing in the garden at village Tetareechak (Bihar). At that time, the labourer, Ganesh Prasad, who was working in Bablu’s home, reached there with some persons. They enticed and took him to village Malikpur and got him forcefully married to 18 years old girl. Bablu’s parents got lodged first information report against Ganesh Prasad, his wife and his son, Laxman Yadav to Dhanrua Police Station. Ajay had been working in a thread factory at Kashmir for five years. From the agricultural works to the household works, all was maintained by Ganesh Prasad, who was one of villager at Tetareechak. The family members of Ajay had strong reliance on Ganesh.

A woman, Chameli, a very fair coloured, allegedly murdered her husband, Jagram Rathod, by setting him on fire at their home in Madhavganj district of Madhya Pradesh for “being dark complexion and unable to provide her luxurious lifestyle”. The incident occurred, when Chameli tied Rathod to a cot, while he was asleep and doused him kerosene before setting him on fire. She fled from the spot, the neighbours rushed in to his aid, but he succumbed to his injuries. The couple had two children. She was later arrested, but denied her role in the incident, saying that she was being falsely implicated by her-in-laws. Rathod’s sister, Girija Devi also

cleared to the police that Chameli always wanted a luxurious lifestyle, which her husband, a construction worker, was unable to provide.

A bride had promised for seven lives and taken saptapadi along with bridegroom, but disappeared from her in-laws house on seventh day on 10th May, 2014, and had also taken away ornaments along with her.\textsuperscript{337} The incident was of village Aukaan (U.P.). The groom from Aukaan was married to the bride from village Khera Rathore on 03\textsuperscript{rd} May, 2014. After the marriage, the bride was brought happily to the in-laws’s house. But, the bride, who had promised to accompany groom up to seven lives, got disappeared on the very seventh day from her in-laws house. Bride was last seen talking with someone on her mobile, and after that she asked for washroom. In-laws sent her behind the house for washroom. Bride’s husband and his family waited till night, but bride did not return. After that, when the husband started search for her, he found that she had also taken away ornaments along with her.

A 42-year-old woman, Debjani Chowdhury, who was undergoing psychiatric treatment, strangled her five-year-old son, before attempting suicide early on 04\textsuperscript{th} May, 2014.\textsuperscript{338} She was found in her bedroom with her throat and wrist slit, and battling for life. Her husband, a Defence Research Development Organization (DRDO) scientist, flew down to the city from Dehradun DRDO station, after getting the message. Police had found a suicide note in Debjani’s bedroom at the Baikuntha Saha Lane address in Survey Park. In the note, she had held no one responsible for her suicide. "Debanga (her son) is too young. He would have suffered a lot without his mother. That is why I am taking him with me," she wrote in the note.

Debjani used to stay at the DRDO quarters in Dehradun. But, just before Durga Puja in October, 2013, she was diagnosed with a psychiatric problem. She came to Kolkata for treatment. Her brothers, Subhankar and Dipankar, who were bachelors, made all arrangements. They rented a flat for her close to theirs, said a relative. As she underwent treatment, her brothers provided all the support she needed. While her elder son, Debarko, was admitted to Modern Academy, Debanga was admitted to BD Memorial Nursery School. At night, Debarko used to

\textsuperscript{337} www.harshsongra.in, Last visited on May 24, 2014.

\textsuperscript{338} www.sumanasa.com, Last visited on May 6, 2014.
sleep in Subhankar's flat, while the younger one used to sleep in Dipankar's room in Debjani's flat. Debjani used to sleep in the next room.

At 3 am on 04th May, 2014, Debjani came into Dipankar's room. She asked Dipankar to let Debanga sleep with her, since he was not keeping well. Dipankar, who got no hint of the macabre plan she had in mind, let her take the child with her. Next day in morning, an uncanny silence in the ground-floor flat aroused Dipankar's suspicion. Debjani's door was locked from inside. When repeated knocks went unanswered, he tried to break it open. Dipankar then called other residents of the apartment and together they forced open the door. It was a ghastly scene inside. There were blood stains all over the room and a little away from the door, Debjani was lying unconscious in a pool of blood, her wrist and throat slit. But, what was more heart wrenching was the lifeless body of little Debanga on the bed. Debjani had throttled him with her dupatta.

Investigation revealed that after killing her child, Debjani slit her throat and then her left wrist with a bonti (kitchen knife). "Preliminary probe ruled out foul play. The injuries appeared to be self-inflicting," said an investigator. Debjani's neighbours said that her situation was deteriorating very fast. From her appearance, especially her eyes, it was quite clear that she was not keeping very well mentally.

Unhappy with her married life, Sudha Gupta, the wife of an Air Force Sergeant, Ramesh Chandra, murdered him with the help of her 17-year-old boyfriend, and claimed that the 40-year-old had died of a heart attack and went on to live with the teenager, until the postmortem called their bluff a month later.339 She was a teacher. Her boyfriend broke down on questioning and admitted to strangling Sergeant Ramesh Chandra at their home in Subrato Park in Delhi Cantonment on April 10, 2014, after he had passed out, having drunk from morning to noon. The couple had a three-year-old daughter, who had to join her mother in Tihar Jail, as she had no one to look after her. The teenager had been sent to a reformational home.

Sudha, 28, told police she was dissatisfied with her sex life, since their marriage in 2008 and Chandra's alcoholism had strained their relationship within two years. As a topper in her

postgraduate exams, she aspired to a better life and began teaching at an engineering coaching institute a few months ago, where she met the teenager, the son of an IAF employee. The boy fell in love with her and made advances. She fell for his flirtatious conversations and he would drop her home on his bike after work. Her husband, who would often be drunk, would reprimand her. Soon enough, Chandra suspected Sudha of infidelity and asked her to stay away from the youth. Sudha, however, plotted to kill Chandra and move in with her boyfriend and live on her salary and the compensation amount from her husband's death.

On April 10, 2014, Chandra, though unwell, began drinking in the morning and passed out around afternoon. Sudha called up her boyfriend and together, they strangled him. She then called in neighbours and took Chandra to hospital at IAF Base, telling them he had been complaining of chest pain and had collapsed suddenly. The body was sent for postmortem and an inquiry was initiated by a team led by SHO Suresh Kumar and Subrato Park police post in-charge S.I., K. B. Jha. The case remained buried until May 6, 2014, when the postmortem report revealed that Chandra had died from asphyxia, after being strangled to death. Immediately, a case of murder was registered and S.I. Jha assigned to solve the case.

When the cops visited Chandra's house, they found it locked. The call details of Sudha's mobile phone revealed her location in Vasant Kunj in south Delhi, where she had been living with the teenager and her daughter after Chandra's killing. Electronic evidence and local inquiry revealed that the teenager was present at the couple's house on April 10, 2014 as well. Police had found a note, apparently written by Chandra, saying if anything were to happen to him, half the property would go to his daughter and the remaining to charity. The duo were detained and questioned wherein they gave conflicting statements. They were put through sustained interrogation, during which they broke down and confessed. The case claimed a second victim, as the families of Sudha and Chandra refused to take custody of their three-year-old daughter. Police were trying to convince them, but as things stood, she had to be moved to Tihar Jail.

In the area of Begumpur of West Bengal, a daughter-in-law murdered her father-in-law on 01st September, 2015 for the sake of her lover. According to the victim family, lacs of

rupees and important documents of land were also missing. Tejpal, aged 63 years, along with his family was living in the area of Begumpur. Besides his wife, there were son Pawan, daughter-in-law Pooja and granddaughter Lavanya. Wife of Tejpal was suffering from fever for a long time. On 01st Sep., 2015, Pooja called to Pawan and Poonam (daughter of Tejpal) and told them that she had murdered her father-in-law, i.e. Tejpal. Later on, when Poonam, along with her husband, reached at her paternal home, they found the dead body of Tejpal in one room. A cloth was tied upon his mouth and many assaults were made on his body with some sharp-edged weapon. Pooja was absconded just after committing the offence. Police arrested one Dr. Gaurav named person on behalf of the statements given by the family of Tejpal. It was alleged that Pooja was in relation with Dr. Gaurav. Pawan and Pooja were married in the year 2011. They had a daughter Lavanya, aged 03 years, from their marriage. Couple was in rift for a long time. Tejpal was retired from CPWD. The family members alleged that jewels worth of Rs. 10 lacs, Rs. 01 lac cash and some documents of land were missing.

An incidence of blackmailing with a person, running dozens of institutions in Rajasthan, was come to the light. A lady employee of the person first made relations with him. During that period she made MMS and then started blackmailing him. She demanded Rs. 10 crores from him. Aggrieved person reported the matter to the police. Police arrested the lady and brought before a court at Delhi. She was sent to judicial custody for one day.

Chairman of Rajasthan Engineering College for Women, Dr. Jitender Singh Faujdar, has a number of colleges in Rajasthan. He has good business also. In one out of these colleges, Meenakshi, aged 35 years, had been working for four years. Jitender Singh alleged that Meenakshi made relations with him by serving him some intoxicated substance and made that MMS also. She demanded money from him and after denied by him, she intimidated him to send to jail by framing charge of rape. Meenakshi had also extorted Rs. 2 crores from Jitender Singh. After that, the lady and her husband demanded the remaining amount from him. This time Jitender Singh recorded the intimidation of Meenakshi and took the matter before Prashant Vihar, Police Station at Delhi. The lady had to receive second installment of Rs. 40 lakhs at a hotel in Jaipur. Police framed the web to arrest the lady. Jitender delivered the money to the lady at the said hotel. As the lady and her husband received the money from Jitender Singh, police caught the both red-handed.
5.5 Extent of harassment is at its last point

One of the accused of harassment for dowry and domestic violence has written a letter to the President of India on 14th July, 2015 for taking permission for death wish for himself along with the family members also. Accused said that he had taken that decision after distressing from the entanglement and harassment of old aged parents in the fake and false case. The accused of harassment for dowry and domestic violence, Dr. Akshay Gaud, said that he was married to a lady from Ballabhgarh (Haryana) in July 2014. He also alleged that the lady had a boy friend, of which he had no knowledge before the marriage. Just after the marriage, she started quarrelling with the family members. Dr. Gaud’s father was going to retire from the government services on 31st October, 2014. After retirement, his father was going to receive more than Rs. 20 lakhs, as of fund etc. Dr. Gaud alleged that for misappropriating that money, the lady conspired along with her boy friend and started quarrelling and abusing the family members. Frightened from that, Dr. Gaud’s mother complained to the police station on 25th October, 2014, on which no action was taken. On 13th December, 2014, Dr. Gaud’s wife made recorded the case of harassment for dowry and domestic violence in Ballabhgarh Police Station.

In that case, in addition to Dr. Gaud, his parents and sister were also named as accused. They were arrested by Ballabhgarh police on 23rd January, 2015. Dr. Gaud also alleged that the police had handed over them to C.I.A. 65 as they were dangerous offenders. He was severely beaten after unclading in the night before his wife. Third degree was used on him, while beaten by C.I.A. After that, police forcefully made him to write “I am impotent” and got it signed by him. Dr. Gaud alleged against C.I.A. Incharge that the latter had demanded bribe of Rs. 1.5 lakhs for releasing the former and also threatened the former for sexual harassment. Later on, his parents were regularly harassed by the police and in-laws. Dr. Gaud requested the President of India for taking stringent action against his wife, in-laws and contemporary C.I.A. Incharge after making proper investigation against all of them. He also requested to the President to withdraw the fake and false case of harassment for dowry and domestic violence against him and his

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parents and sister. Further, he said that if that could not be done, then he and his parents would be permitted to fulfill the death wish.

In Poonam Nagar v. State of Haryana and anr., Justice Rameshwar Singh Malik held that, “F.I.R. under s. 498A and 406, I.P.C. against sister of the husband has been quashed on the following grounds: Firstly, the sister was married about 6 years before the marriage of the complainant lady and was living separately; secondly, allegations against her of general nature; thirdly, it is glaring example of the unhealthy practice and unwarranted general tendency to implicate maximum members of the family of the husband, including his distant relatives, at the hands of estranged wife/complainant, in the case under Sections 498A and 406 IPC, arising out of matrimonial discord; and fourthly, Once such a glaring fact situation comes to the notice of Court, it become its constitutional obligation to come to the rescue of an accused, like the petitioner herein, while exercising its inherent jurisdiction under Section 482 Cr.P.C., so as to prevent any further abuse of process of Court and also to secure the ends of justice. Coming back to the fact situation obtaining in the present case and respectfully following the law laid down by the Hon'ble Supreme Court as well as this Court, in the cases referred to herein above, it is unhesitantly held that continuation of the criminal proceedings arising out of the impugned FIR, will certainly amount to misuse of process of Court and will result in miscarriage of justice, thus, the same cannot be permitted to continue any further. The above said view taken by this court also finds support from a catena of judgments on the subject, including the judgments of the Hon'ble Supreme Court as well as this Court in State of Haryana and others v. Bhajan Lal and others, Geeta Mehrotra v. State of U.P. and another, K. Srinivas Rao v. D. A. Deepa, Madan Lal and others v. State of Punjab, Gurdial Singh v. State of Punjab and

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342 2016 (1) RCR (Criminal) 119: 2016 (1) Cri.CC 539
345 2013 (2) RCR (Criminal) 217: 2013 (2) Recent Apex Judgments (R.A.J.) 102: 2013 (5) SCC 226 (SC)
346 (P&H) 2012 (8) RCR (Criminal) 428
5.6. Rising of approach to the courts against men

It was tragic that, “P. Raghu, an IT professional and resident of Madhapur in Hyderabad (Andhra Pradesh), thought he had an ideal life until he decided to question his wife for sending her entire salary to her parents.\(^{350}\) His attempts to explain how he was finding it difficult to pay all the household bills from his account ended, with his wife filing a sexual harassment case against him, landing him in the daily travails of the court. In India, if you have sex with a person with consent, it’s fine. But, if that same person complains, it’s a problem. Nowadays, we see a lot of such cases. Girls complain when someone touches them, and even when someone doesn’t touch them. It becomes a problem then, and the man’s honour is ruined in this situation. With strict laws against harassing women, an increasing number of men in the city of Hyderabad claim to be in the same boat as Raghu as some women misuse these laws to their advantage, as revealed by police records. Though the gruesome Delhi gang rape in December, 2012 renewed focus on women’s safety in the country and led to the passing of a rehashed anti-rape law, police officers say there is another side to the coin, with a significant increase in the number of false cases of harassment being filed. According to an officer at women’s police station at Hyderabad, in 2011, only 10 % of the total harassment and domestic violence cases registered turned out to be false. But now, the figure is nearly 30 %. Police is now undertaking a more detailed inquiry into such cases and listening to both parties carefully.”

In \textit{Tilak Raj v. State of Himachal Pradesh},\(^{351}\) a lady reported a case under s. 376, 417 and 506 of I.P.C. to A.S.I., Chamba Police Station (HP) on Jan. 06, 2010. She stated that she was

\(^{347}\)CRM-M-36189-2010, Decided on July 31, 2015


\(^{349}\)CRM-M-12551-2012, Decided on Sep. 03, 2015

\(^{350}\)www.publication.samachar.com, Last visited on April 16, 2013.

being raped and beaten by the appellants on Jan. 01, 2010. The latter also gave threatening of dire consequences, if the former tell to anyone else about the matter. Further, she also reported that she was being sexually exploited on the basis of promise of marriage. A case was registered against the appellants under s. 376, 417 and 506, I.P.C. Later on, the lady herself denied before the court that she has not registered any F.I.R. against the appellants under the above stated sections. Himachal Pradesh High Court acquitted the appellants from the charge under s. 376, I.P.C., but held guilty under s. 417 and 506, I.P.C. On Jan. 06, 2016, a Bench, comprising of T. S. Thakur and V. Gopala Gowda, of Supreme Court of India, after hearing both the parties, stated that, “it is clear that the evidence of the prosecution is neither believable nor reliable to bring home the charges leveled against the appellant. We are of the view that the impugned judgment and order passed by the High Court is not based on a careful reappraisal of the evidence on record by the High Court and there is no material evidence on record to show that the appellant is guilty of the charged offences i.e., offence of cheating punishable under Section 417 of IPC and offence of criminal intimidation punishable under Section 506 part I of IPC.”

In another case of State of Rajasthan v. Babla, Justice Sangeet Lodha, of the High Court of Rajasthan, decided the appeal stating that, “As per the deposition of the prosecutrix lady, she was not forcibly taken away by the accused Babla to the forest rather, she followed him voluntarily. It is stated that the accused committed rape on her thrice, however, she did not raise any voice. The prosecutrix has stated in unequivocal terms in cross-examination that she had indulged in sexual intercourse with the accused Babla even prior to the incident of the rape. It is stated that the father of the prosecutrix had seen the prosecutrix and the accused indulged in the sexual intercourse. She further stated that the accused did not pay the money before the Village Panchayat and therefore, her father got registered the case against him. The father of the prosecutrix has also admitted in unequivocal terms that a Village Panchayat was convened and since the accused did not pay L 6,000/-, the case was got registered against him. Thus, taking into consideration the statements of the prosecutrix, her mother, father and other witnesses, this court is of the considered opinion that in absence of any cogent evidence on record suggesting that the accused committed rape on the prosecutrix, the conclusion arrived at by the trial court

that the charges against the accused are not proved beyond reasonable doubt, appears to be just and proper. The accused is acquitted from the charges under s. 376, 342, 323 and 506, I. P. C.”

It is the true fact that, “Men’s rights groups and activists too have taken up the issue and are trying to whip up a campaign to demand gender neutral laws against harassment. One such organization is Save Indian Family Foundation, which had held a candlelight vigil on April 04, 2013 in memory of Manoj Kumar, a techie from Bangalore, who committed suicide on April 9, 2013, unable to bear the harassment by his wife and mother-in-law. In the last five years, more than 500 men in the city of Hyderabad and other parts of the state of Andhra Pradesh have contacted the Foundation with similar problems, with their wives, in-laws, girlfriends or co-workers threatening to file harassment cases against them for vengeful reasons. With such cases on the rise due to rising awareness about the strict awareness about the strict laws pertaining to crimes against women, at least five new members are coming forward to join the group every week to demand that these laws be made gender neutral immediately.”

S. 498A was enacted to empower women against harassment for dowry and domestic violence. Now-a-days, the cases of misuse of this provision have become a daily routine. It is sad to say that the Supreme Court in the historical case of Sushil Kumar Sharma v. Union of India\textsuperscript{353} has condemned s. 498A as ‘Legal Terrorism’. In 1985, amendments were made in Indian Penal Code and Criminal Procedure Code in relation to dowry. The object of those amendments was to empower women and to stop the bad consequences relating to the dowry. The government got the success to some extent in its object. Women became aware when the dowry lovers got punishment. Due to the strictness in the law, two changes came into effect. First, women were not murdered and harassed for the want of dowry, and the second was the awareness relating to the dowry prohibition laws. In Narendra v. K. Meena,\textsuperscript{354} a wife continuously forced her husband to live separate from his family members. It was a case in which the husband was the only person, who was earning and maintaining his family. The wife was interested to spend herself the whole income of her husband. She also leveled fake charges

\textsuperscript{353} (2005 (6) SC 266

against her husband that he had extra marital relations with their maid. Further, she had attempted to commit suicide by burning herself after pouring kerosene oil, without any reasonable ground. On Oct. 06, 2016, the bench, comprising of Justice Anil R. Dave and Justice L. Nageshvara Rao, after considering the law fixed in Pankaj Mahajan v. Dimple @ Kajal\textsuperscript{355} and Vijaykumar Ramchandra Bhate v. Neela Vijaykumar Bhate,\textsuperscript{356} held that such continuous pressure on husband to separate him from his family by his wife is considered to be the cruelty because firstly, in Indian society and ethos, it is very normal that a son is maintaining his parents, and secondly, in this Hindu society, maintaining the parents is a pious obligation of the son. Such husband has the right to demand divorce from his wife, who has leveled false charges of having extra marital affairs against him, as it is hard to live peacefully along with such wife. It is such husband, who has saved her from committing suicide. As per the bench, “if the wife had succeeded husband, it would have entangled the husband into clutches of law. It is mental cruelty to husband. Only one event was sufficient for the husband to get divorce on the ground of cruelty.” Hence, the order, passed by the High Court of Karnataka, against the appellant, is said to be set aside and quashed.

5.7. Reaction of women against the misuse of the protective laws for women

Akhil Bhartiya Naari Raksha Manch, an NGO in India, working in a dedicative manner for the social and moral upliftment of all the categories of the society, made a study of the judgments of various courts and the reports of the research scholars.\textsuperscript{357} The organization found in its study that the rising number of complaints, relating to the sexual exploitation and rapes, in the country are mostly false, inspired by the motive of self interest, vengeance, defamation, blackmailing or enmity, and are recorded in abundant number in the country. The organization felt the need of necessary changes in the society and the system on the basis of the study of various protective laws for women and the cases, running in the courts, especially of judges of

\textsuperscript{355} (2011) 12 SCC 1  
\textsuperscript{356} 2003 (6) SCC 334  
\textsuperscript{357} www.publication.samachar.com, Last visited on Sep. 01, 2014.
different High Courts, Saint Asaram Bapu and respective personalities of the society. On 31 August, 2014, some famous organizations, as Women Wing of Sanatan Organization and Dharma Raksha Dal (Naari Shakti Vahini), affected from the misuse of the protective laws by women, organized a march of huge number of women in Delhi from Rajghat to Parliament Street. More than 50,000 women, who came from the different parts of the country, demanded in one voice for the immediate action against the misuse of the protective laws by women, which is encouraging crimes, injuring the culture, religion and morality of the country, and raising the imbalance between the man and the woman.

_Akhil Bhartiya Naari Raksha Manch_ and other women organizations presented strong evidences in the support of their demands. According to them, in last women have to compensate for the damages, which happened due to the rising instances of misuse of these laws. Women are being used for cutting the roots of the country, which is a stigma over the community of women. Sending the saints by alleging bogus allegations against their character was a conspiracy to prevent the development of women and society. Fresh investigations of those allegations should be made, so that the exploitation over the innocent saints and citizens will stop and they can be released from the said allegations. The biggest fake case of the era was filed against Saint Asaram Bapu, where no bail was granted to him from one year in the fast track court even on humanitarian grounds, as he was suffering from various diseases. No allegations were proved against him and further, no facts were said to be justified according to the medical or any other technical reports. The base of the charges under the POSCO Act was the minority of the girl, but she was also said to be major. In the given circumstances, the investigation of the police was under doubt and supposed to be biased.

Thousands of women had hoardings and banners in their hands and they marched from Rajghat to Parliament Street via Delhi Gate, Ramlila Ground, Kamla Market Police Station and Connaught Place in around four hours. They served a memorandum to Hon’ble President of India, Prime Minister, Home Minister, Law Minister, Ministry of Women and Child Development and Commission for Women after holding a press conference.

5.7.1. A woman activist, who fought for men’s rights
She is an activist with a difference. Dr Indu Subhash, a Ph.D. in women’s studies, of Lucknow took Bareilly by storm in 2014, as she rooted for the rights of men in the country and advocated for formation of a National Commission for Men. Her fight against “gender-biased laws” drew massive response from the people at Lucknow, including women, who volunteered to take up the cause at their level. According to her, all laws are gender-biased and spoiling the lives of men. There are a number of men, who commit suicide, as laws, which should ideally be building families, are becoming the reason for their breakdown. Further, all laws are meant for protection of women, who are misusing them to harass men. For example, in the case of separation due to ‘irretrievable breakdown of marriage’, women are entitled to get half the share in her husband’s parental property. Is this right? Similar is the story with anti-rape law that gives immense power to women to misuse it like the Domestic Violence Act and the Dowry Prohibition Act. Police is acting as a major tool in the misuse of the law. Subhash urged the youths at Lucknow to fight against the introduction of this bill, which was in the process of becoming a law.

Subhash, was serving as a principal in a college in Sultanpur, started her fight in 2007, when her brother became a victim of one such law. Subhash’s sister-in-law lost her mental stability after the death of her son and committed suicide. But, Subhash’s brother-in-laws blamed her family for the murder and lodged an FIR under the Dowry Prohibition Act. Her whole family was tortured and put behind bars for nothing. Subhash, being herself a woman, fought for the rights of men.

5.7.2. Commencement of movement for the rights of men in India

According to the sources, “The Indian men’s rights movement was started by Ram Prakash Chugh, a Supreme Court advocate in Delhi in 1988 to handle false cases of dowry and torture. It was called Crime against Man Cell, also known as Society for Prevention of Cruelty to Husbands. Chugh himself faced problems in his marital life. In

1996, *Purush Hakka Sanrakshan Samiti* was formed by Balasaheb Patil to help husbands falsely imprisoned in dory cases and to help avoid divorces by counseling couples. *Sangyabalya*, a helpline for husbands and families harassed by anti-dowry laws, was started in June 2003 by Arun Murthy in Bangalore. He started the helpline after his sister-in-law filed a dowry harassment case against his younger brother and his entire family was implicated. *Save Indian Family* was founded on 9th March 2005 by the unification of a number of family’s rights organisation across India. On 19th November 2007, Save Indian Family got a complaint regarding an ad, which showed a wife slapping her husband on her wedding day because of a creaking bed. The complaint alleged that the ad promoted violence against men by portraying it as funny. Swarup Sarkar of Save Indian Family said that violence against women draws strong reactions, but violence against men on public television is ignored. In the same month, Suresh Ram of Chennai-based organization *Indiya Kudumba Pathukappu Lyaakam*, complained against a Pond’s ad, which portrayed men as wife-beaters, and an ICICI Prudential Insurance commercial, which portrayed verbal and economical abuse against men. On 19th November 2010, the Bangalore chapter of National Coalition for Men, a US based men’s rights organization, organized an event called “Save The Male”. Issues like father’s rights, false dowry cases, high suicide rate among men and domestic violence were discussed. In December 2012, about 15,000 men boycotted Aamir Khan’s then recent film “Talaash”. According to Anil Kumar, one of the founders of SIFF, Aamir Khan portrayed men negatively on his television show.

### 5.7.3. Men Day: Celebration and its justification

In past decades, position of society has dramatically changed. In the era of modernization and empowerment, where a particular class is getting the rights of social and legal protection, fundamental rights, provided by our Constitution, are openly ignored. Political parties have understood that the trump cards of caste equation, hindu-muslim differentiation and backward class will not be effective now. The principle of “put the differences and rule” established by Britishers is not seems to be useful. In such situation, the new issue is trying to fetch its benefit by attracting the vote bank, getting
them prepared and executing it in practicality. Women empowerment is one those special issues, on which every political parties have the eyes. Political parties want to show themselves well-wisher of women class and very sensitive towards the women protection. They support the women in agitations by ignoring the men. Women empowerment is the issue, which is much useful in the politics of vote bank. Where upliftment of women is a very sensitive matter and she should get proper protection and respect, but alongwith this it is also to be kept in mind that the special treatment to a particular sex do not infringe the fundamental rights of the persons of the other sex.

Persons do not know that Men Day comes on 19th November every year. The demand for the rights of men and men empowerment is an unheard issue. The indifference regarding the rights for men is known to everyone. There are various misconceptions and oppositions related to the rights for men. Men are committing more suicides in comparison to the suicides by women, as the former face the bitterness from the family and partiality on the base of sex. According to the data of NCRB, family conflict is the main cause of the suicides by men. Where the cruelty over women is treated as grave offence and there are laws for that purpose also, on the other side, there is no provision in the law for the cruelty over men in the family. Partiality in the society and family may be possible on everyone. But, if men go to anyone with their problem, they will be treated as the subject of laughing only. The social and legal indifferences made the men to take the step of suicide. There is no government or non-government agency or system for identifying the real position of men, for solving their problems and for collecting the data over men.

Our country criticizes in one voice the incidents like physical violence and rape on women on the one side, but there is no help for men for the exploitation on the other side. When the voice for rights of men is raised, it is suppressed by lady officers by stating that infringement of rights of men is justified when women are being exploited. Here it is important to understand that protection to women is necessary, but in the present circumstances, men are not safe and protected. It is unjustified and illogical to pull out the meaning that women shall become unprotected, if protection is given to men.
In reality, this view raises the differences between the two sexes, which is intentionally used by the political parties for making their own benefits.

Sensitiveness is necessary for the rights of men and for that some aspects are to be understood. The first is that to talk about the rights of men is not to talk about the infringement of rights of women. Reality is that men are equally or more victimized than women in various issues, which are considered to be related to women. Men are more exploited from domestic violence in comparison to women. Generally, physical hurt is considered in the category of violence. Mental and social exploitation of men is not treated as domestic violence. At present, there are nearly 50 provisions in the law for the protection of women and the coming new laws are also enacted for the same purpose. If any man suffers all those circumstances, then whole social and legal sensitiveness converts into insensitiveness.

Organizations, working for rights of men, and the victim families of sex partiality have regularly raised voice against the sex partial laws and for support of the reformation in these laws. Due to politics of vote bank and the pressure of women organizations, hurdles are being created in the way of these reformations in the laws. Judicial system has given several times taunting remarks over the misuse of these biased laws by women and awakened the system, but all in vein. Even the Supreme Court of India has given the name of “Legal Terrorism” to this misuse of laws by women. In reality, the cases of misuse of laws by women are more than 90%, but after much struggle the Commission for Women has considered that in 53% cases law is misused by women. The right of equality irrespective of sex, provided by the Constitution of India, and human rights and principles supported by UNO that one is innocent till proved accused and hundred accused may be released, but one innocent should not be punished, are sacrificed to the misuse of laws by women.

Men Day is a try to throw light over the rights of men. This day gives pride to men and power to fight collectively for their fundamental rights. Men are always seemed to be in the role of guard. They have the liability to provide strength and protection to the family.