Chapter 6

JUDICIAL OBSERVATIONS IN INDIA
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6.1. Failure of the system

As per Indian laws, while a man can be booked and jailed for adultery (S. 497, IPC), a woman can never be booked for adultery. She can only be an abettor in adulterous relationship, but she can never be put behind bars, even if one has the video of her having hard core sex with a man/men! It is not debatable that adultery should be a crime or not, but whatever it is, the law should be equally applicable for both the sexes. While a man can be jailed for adultery, a woman can never be jailed for adultery in India. In India, almost all criminal lawyers keep a template of S. 498A, IPC complaint ready with them. They just need to change names of various family members in that template and an FIR is lodged. There is such a rampant misuse of this law that some girls have made it their profession. The parties that get benefited the most after the wife in such cases are - Police and Lawyers.

The stats at Fight Against misuse of Dowry Law (S. 498A, I.P.C.) reveal that, “98% of the s. 498A cases filed are false. In urban areas - and especially among the educated women the extent of misuse is rampant. One can remember Nisha Sharma's dowry case in 2003, where she was made a queen overnight and became a darling of media? She was even felicitated by the prominent state Governments across India for her boldness. After 9 years of trial, the court found that her case was false. She made her to-be-husband the scapegoat so that her affair is not caught in her family and samaaj. When she lodged the case in 2003, it was across all newspapers and all channels covered it prominently, but when the same case was found to be false in 2012, none of the media organizations cared to give this news the same prominence.” This is a glaring example of a system wide failure and the greed of those involved.

6.1.1. Role of Police

Due to the extent of misuse of this law and criticism all around, Government of India tried setting “Women Cells” for pre-counseling before registration of FIR, but these cells have failed in their job since they act as an extortion tool. It is the blunt fact that, “Either husband's family has to bow to the demand of girl or be ready to face the jail. In
almost all dowry cases, an FIR is registered, even if the police know that the case is false. They fear the wrath of media since a bride is involved. In many cases, police is bound to file the case of S. 498-A, IPC or dowry case. If they don't file the case, women organizations would go on a *dharna* and the case would get highlighted in media, so better the accused fight it out in the court. Another reason is lure for easy money. A common man would dread a thought of having a police jeep at his doorstep.” Our corrupt police find this a very easy way to extort thousands and even lakhs of rupees from such people. Main money goes for taking out *some* names from the FIR. Remember in all cases, husband's name would never be taken out from the FIR. This rate is dependent upon your profession, your citizenship status (NRI) etc. In many cases, Police has mindlessly filed this non-bailable section against children as little as 3 years old to senior citizen as old as 85 years old.

6.1.2. Role of Lawyers

If one meets any criminal lawyer off-the-records in a casual setting, he/she will tell him numerous stories about how the system is extremely biased and the extent of the misuse of this law by married girls and their families. Get the same lawyer on media and he/she will take a U turn. The same lawyer, who would tell him umpteen stories about the misuse of this law and that it should be abolished; would start giving arguments in favour of this law in front of media. The misuse part is almost always refuted with "*Which law is not misused, why talk only about this law?*"

The reasons behind this question are simple:
A. It is perhaps the only law in India, which puts the onus of proving himself innocent on the accused, rather than the usual practice of putting the onus on the complainant to prove the other party guilty.
B. It is perhaps the only law, which doesn't require proof of any kind for the allegations put forward by the bride. There is an instant jail, the moment FIR is registered.
C. It is perhaps the only law in India, where women take people from the mainstream of society - doctors, engineers, CAs, IAS officers and put them to trial without hearing
their side. Something as simple as a court notice is dreaded upon by such respected
class of people. The unscrupulous lawyers and police would then take advantage of
this generated fear and fleece money like anything. There are cases, where people
have lost their jobs, their onsite assignments. In some cases, it becomes difficult for
the nubile sisters/brothers to get married.

It's a huge money maker for all lawyers. Even our Supreme Court in one of its
landmark judgment has termed this law becoming a tool for “legal terrorism” and has
asked the government to review it. Many a times it has gone in the parliament too for
review, but -

A. Any modification is vehemently opposed by women organizations; and

B. Most of the times one would see that top posts in our parliament are occupied by
lawyers and they would never want to monetarily harm their fraternity in any way.

On a particular TV debate, a Head of women organization was arguing that, “if
they (men) have not done anything, why the men are fearful. Let them face the trial and
come out clean”. While one can go on-and-on replying to this - a single word answer is
Harassment. The kind of harassment one feels - just after the FIR - from the police,
lawyers and during trial has driven many men to suicide. Read about Syed Makhdoom on
Google and how he was driven to suicide due to a false case against him. He has shot a
very emotional video of him just before he was about to commit suicide. It has prompted
Suhaib Illyasi to direct a movie called “498a: A Wedding Gift”. On the same debate,
when someone pointed that there should be a strict penalty on those ladies, who file false
cases, the same feminists would again oppose it, saying it would stop the bechaari abla
naari from filing these cases. These are the double standards you will see all around.
Have your cake and eat it too!

6.1.3. Role of Judiciary

The lessons, one read in his Civics books in 9th -10th standard, would go for a
toss, when one reach the courts and how they actually function in India. One can see that,
“most of the times, the courts in India impart decisions based on the mood of the judges
on a particular day - especially where a bail or stay application is to be heard. Such applications are disposed off in a matter of 2-3 minutes, if accused is lucky his lawyer may get 5-6 minutes, so it's a hit and trial game in bail and stay cases. Lawyers often wait for a bench to change, so that they can get their case in a bench known for giving particular type of judgment. Often you will find that the decision comes as an emotional response without considering merits/demerits of the case. This includes High Courts and to some extent Supreme Court as well. At all stages in the court, the accused would be asked to give money to get the work done.” Accused is asked to give money -

A. So that the public prosecutor doesn't speak much against him.
B. So that the reader expedites his files in court.
C. So that after the bail, he can gets the bail copy quickly from the clerk. Remember this clerk sits right behind the room of the judge and he openly asks him for money.

One of our lower court lawyer's munshi (clerk) has this to say about the biased laws - "Bhaisahab, agar mein aapko yeh saare Act padha doon naa, aap apni biwi se yeh bhi nahi pooch paoge ki khana mein aaj namak kam kyon hai " (Brother, if I'll make you read all these Acts, you would feel terrified to ask your wife, why has she put less salt in the food). This clerk has been working with a lawyer for more than 23 years. Though he was not LL.B. by profession, but with his experience he knew equal to if not more than his lawyer. On the surface, his statement may seem a bit exaggerated, but this is the kind of fear it has instilled in the people, who have seen the misuse of this law from close quarters. He further added that 99% of those 498a cases that he had seen in his career were false. Most of the times, that law is either (a) used by the girl’s parents to extract money from their rich sons-in-laws; or (b) the girl would use it to hide her affairs; or (c) probably to settle scores after a fight with husband. The irony is that, that law is not used by the real victims of dowry harassment. The real victims are not there in the urban areas, rather they are in rural areas, but they never dare to step into a police station to file a dowry case.

One should be happy that a case was filed on him in 2012 (a lot of awareness was there regarding its misuse). In the 90s, there was a straightaway one year jail term for the
husband before even the first hearing. For those, who don't know, there are entire forums
dedicated to this very cause http://www.498a.org/forum/. One can read stories after
stories of harassed husbands and their families at this website. One of the victims had
come up with a book “Just Married: Have You Applied for Bail?” That book had got
rave reviews on FlipKart. The author was a software engineer working at Tatas. As per
the author, it was a must read for all unmarried guys in India. Supreme Court had taken
the bull by its horns and taming it - No arrests under anti-dowry law without magistrate’s
nod.

Let's say one get news from a source that a (false) FIR has been filed against him
in a non-bailable section. What should be his first step?

Option A: Since he has not done anything wrong, he should go to the police and tell the
truth.

Option B: Go in hiding and plan for the next move.

Option C: Do Nothing. Since the FIR is false, police will see through the truth, when they
conduct investigation.

Answer: In a world, where police is non-corrupt, the ideal answer could be A or C, but in
India as a rule he should always go for option B.

Go in hiding and apply for anticipatory bail or stay on arrest as the case may
be. Again, common sense beats anyone here. Our system allows accused to be on the run
from a government setup (Police) and ask for reprieve from another Government setup
(Courts), while he is in hiding. So next time, when one read newspapers that a person is
escaping arrest after an FIR, one should not assume that he (escaped person) is guilty.
Even if an FIR is false, if Police is able to catch him in a non-bailable case, he will be
jailed first and reasons will be asked at later stage. “Feminist organizations have
unequivocally and unanimously hailed the implementation of the Domestic Violence
(DV) Act in India. They claim that this law will empower victims and protect them
from abuse. Most people in their right state of mind would agree that domestic violence
in a relationship is not acceptable. It is only fair that for their own mental and emotional

359 Patterns and Trends of Domestic Violence in India: An Examination of Court Records, V. Elizabeth
health and for the well-being of the children, that the victims be protected from abusive partners.”

There are three fundamental problems with this law –

(i) It is overwhelmingly gender biased in favor of women;
(ii) The potential for misuse is astounding; and
(iii) The definition of domestic violence is too wide.

6.2. Section 498A, I.P.C. and its problem

Supreme Court has observed that, “Section 498A has dubious pride of place among the provisions that are used as weapons rather than shield by disgruntled wives.” Section 498A regarding marriage disputes has been getting a bad rap in recent times over allegations of its misuse”. It was in jail that Nagpur-based businessman, Rajesh Vakharia, realized that there were “thousands” of men, who like him, had been imprisoned for subjecting their wives to so called – “(fake) cruelty”. The problems began soon after his marriage in 1999. His wife wanted to move from Akola to Bangalore, didn’t want to live with the joint family and wanted him to loan some money to her family. When he refused, she filed a complaint under section 498A of the Indian Penal Code, which seeks to protect women from harassment by husbands and their families and carries a punishment of up to three years. Vakharia spent five days in jail in 2004 after seeking anticipatory bail for other members of his family, including his mother, a cancer patient.

In Mangat Ram v. State of Haryana, the bench, comprising of Justice K. S.Radhakrishnan and Justice Vikramajit Sen, of the Supreme Court of India, gave a surprising observation over the findings of the trial court and the High Court of Punjab and Haryana. The observation of the bench is that, “We are sorry to state that the trial Court as well as the High Court have not properly appreciated the scope of Sections 498-A and 306 IPC. Explanation to Section 498-A gives the meaning of cruelty, which consists of two clauses. To attract Section


498-A, the prosecution has to establish the wilful conduct on the part of the accused and that conduct is of such a nature as is likely to drive the wife to commit suicide. We fail to see how the failure to take one’s wife to his place of posting, would amount to a wilful conduct of such a nature which is likely to drive a woman to commit suicide. We fail to see how a married woman left at the parental home by the husband would by itself amount to a wilful conduct to fall within the expression of *cruelty*, especially when the husband is having such a job for which he has to be away at the place of his posting. We also fail to see how a wife left in a village life *in the company of rustic persons*, borrowing language used by the trial Court, would amount to wilful conduct of such a nature to fall within the expression of *cruelty*. In our view, both the trial Court as well as the High Court have completely misunderstood the scope of Section 498-A IPC read with its explanation and we are clearly of the view that no offence under Section 498-A has been made out against the accused appellant.”

In addition to this, the bench has stated that, “We have already indicated that the trial Court has found that no offence under Section 304-B IPC has been made out against the accused, but it convicted the accused under Section 306 IPC, even though no charge had been framed on that section against the accused. The scope and ambit of Section 306 IPC has not been properly appreciated by the Courts below. Abetment of suicide is confined to the case of persons who aid or abet the commission of the suicide. In the matter of an offence under Section 306 IPC, abetment must attract the definition thereof in Section 107 IPC. Abetment is constituted by instigating a person to commit an offence or engaging in a conspiracy to commit, aid or intentional aiding a person to commit it. It would be evident from a plain reading of Section 306 read with Section 107 IPC that, in order to make out the offence of abetment or suicide, necessary proof required is that the culprit is either instigating the victim to commit suicide or has engaged himself in a conspiracy with others for the commission of suicide, or has intentionally aided by act or illegal omission in the commission of suicide. We have every reason to believe that, in the instant case, the death was accidental, for some reasons. Firstly, though not proved in her dying declaration, it has come out in evidence that the deceased was suffering from Epilepsy for the last three years i.e. before 15.3.1993, the date of incident. This fact is fortified by the evidence of Dr. Kuldeep. He deposed that the deceased was suffering from Epilepsy and was under his treatment from 23.12.1992 to 2.4.1993 at Kuldeep Hospital, Ambala City. His evidence was brushed aside by the trial Court on the ground that Dr. Kuldeep was not a
Psychiatrist. It may be noted that Epilepsy is not a Psychiatrist problem. It is a disease of nerves system and a MD (Medicine) could treat the patient of Epilepsy. The reasoning given by the trial Court for brushing aside the evidence of Dr. Kuldeep cannot be sustained. Therefore, the possibility of an accidental death, since she was suffering from Epilepsy, cannot be ruled out. Evidently, she was in the kitchen and, might be, during cooking she might have suffered Epileptic symptoms and fell down on the gas stove and might have caught fire, resulting her ultimate death. Secondly, ASI Ram Mohan, the Investigating Officer of the case, deposed that he had recorded the statements of the deceased, wherein she had stated that she was suffering from Epilepsy for the last three years before the incident and that on 15.9.1993 while she was preparing meals on stove, she had an attack of fits and fell on the stove and caught fire. She had also deposed at that time that her husband was away at duty at Madhuban, Karnal. In our view, the evidence of ASI Ram Mohan has to be appreciated in the light of overall facts and circumstances of the case.”

The bench finally reached to the conclusion that, “Taking into consideration all aspects of the matter, we are of the view that the prosecution has not succeeded in establishing the offence under Section 498-A and Section 306 IPC against the appellant. Consequently, the conviction and sentence awarded by the trial Court and confirmed by the High Court, are set aside.”

Because of this section, wives can send old mothers-in-law to jail. One of the founders of the Save Indian Family Foundation (SIFF), Vakharia, was happy about a Supreme Court judgment, in which the court observed that, “Section 498-A has dubious pride of place amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested.” A bench, comprising of Justice C. K. Prasad and Justice P. K. Ghose issued directions that, “Police are restrained from automatic arrests on the mere lodging of a complaint. Police must first satisfy themselves about the necessity of arrest, and then get a magistrate to sanction the arrest.” The new directions apply to not just section 498-A, but any arrest that carries a sentence of less than seven years in jail.
In *Shlok Bhardwaj v. Runika Bhardwaj & Ors.*\(^{362}\) the bench, comprising of Justice Sudhansu Jyoti Mukhopadhaya and Justice Adarsh Kumar Goel, of the Supreme Court of India, heard the appeal against the judgment of the High Court of Uttar Pradesh. The facts in the appeal presented before the bench were that, “The appellant and Respondent No.1 were married on 25th January, 1996. The appellant belongs to Allahabad where his parents live and the respondent belonged to Jabalpur where her parents are living. The appellant is said to be employed at Delhi in Central Government. The appellant husband filed a divorce petition on 7th July, 1997 at Allahabad Family Court. The wife lodged First Information Report dated 4th November, 1997 at Ghaziabad making allegations of cruelty against the husband. After investigation, the husband and four of his family members were tried under Sections 498A, 406, 506 IPC and 3/4 of the Dowry Prohibition Act before the Judicial Magistrate, Ghaziabad, in Case No.356/2002. The trial ended in acquittal of all the accused including the appellant vide Order dated 30th July, 2002.”

The bench found that, “It is clear from perusal of the impugned order of the High Court that the development of settlement between the parties during pendency of the revision petition has not even been adverted to. Once the matter was settled between the parties and the said settlement was given effect to in the form of divorce by mutual consent, no further dispute survived between the parties, though it was not so expressly recorded in the order of this Court. No liberty was reserved by the wife to continue further proceedings against the husband. Thus, the wife was, after settling the matter, estopped from continuing the proceedings. In any case, it is well settled that the scope of revisional jurisdiction of the High Court does not extend to reappreciation of evidence. In exercise of revisional jurisdiction, the High Court can interfere with the acquittal only if there is perversity in the order of acquittal. In the present case, the order of acquittal could not be held to be perverse. The High Court observed that the demand of articles, papers of house property of Jabalpur and Noida and the contents of Exhibits Ka2 and Ka3 amounted to harassment, cruelty and mental torture. This observation amounted to substitution of its view by the High Court for the view taken by the Magistrate after due consideration of all the allegations. The Magistrate inter alia found the version of the respondent

wife to be not believable and also found that the allegations were not substantiated. It was observed that the wife herself admitted that the documents Exhibit Ka2 and Ka3 were merely guidelines for good conduct and behavior expected of her and did not amount to cruelty. It was also admitted that there was no demand of dowry at the time of marriage. The Investigating Officer had never visited Jabalpur and the demand of house at Jabalpur was not substantiated. It was further observed that criminal case filed by the wife was a counter blast to the divorce case filed by the husband. Version before the Court was improvement over the original version in the First Information Report. She had given contradictory statement about the place where her husband demanded the house. Thus, the Magistrate having dealt with the matter threadbare, the High Court, in exercise of revisional jurisdiction was not justified in interfering with the order of acquittal particularly when the parties had reached the settlement before this Court on the basis of which divorce by mutual consent was granted by the Family Court, Jabalpur which fact was placed on record of the High Court.”

The bench made the concluding remarks that, “In view of the above, we allow this appeal, set aside the impugned order passed by the High Court and restore the order of the Magistrate.”

Section 498-A has been getting a bad rap in recent times over allegations of its misuse. Citing National Crime Records Bureau (NCRB) data for 2012, the judges noted that 6% of all arrests made across the country were made under this section, that works out to two lakhs arrests, nearly a quarter of which were of women. However, even the apex court noted the misuse often arises, when an over-zealous police jumps into make an arrest without first conducting an investigation. “The moment someone files a first information report (FIR), the first thing the police does is to make an arrest”, as observed by Mrinal Satish, Associate Professor of Law at the National Law University, Delhi. This is despite a section introduced in 2010 that makes it necessary for police to give the reasons for an arrest in any case involving a punishment of less than seven years in jail.
In *Taramani Parakh v. State of M.P. & Ors.*, the bench, comprising of Justice T. S. Thakur and Justice Adarsh Kumar Goel, of the Supreme Court of India, was hearing an appeal with the facts that, “The appellant was married to Respondent No.2 on 18th November, 2009. She lodged complaint dated 19th May, 2011 alleging that Respondent No.2 and his parents harassed her with demand of dowry amounting to cruelty. This led to registration of FIR being Crime No.15811 under Sections 498A/34 of IPC at Police Station Hujrat Kotwali, Gwalior (Madhya Pradesh). After investigation, charge sheet was filed against Respondent No.2 and his parents which has been registered as Criminal Case No.163/12 before the Judicial Magistrate First Class, Gwalior.”

The bench kept in mind the judgments in *Asmathunnisa v. State of A.P. represented by the Public Prosecutor, High Court of A.P., Hyderabad and Anr.*, *Neelu Chopra and another v. Bharti*, *Manoj Mahavir Prasad Khaitan v. Ram Gopal Moddar and another*, *Geeta Mehrotra and another v. State of Uttar Pradesh and another* and *Amit Kapoor v. Ramesh Chander and Anr.*, while deciding the appeal. The bench observed that, “The decisions referred to in the judgment of the High Court are distinguishable. In Neelu Chopra, parents of the husband were too old. The husband Rajesh had died and main allegations were only against him. This Court found no cogent material against other accused. In Manoj Mahavir, the appellant before this Court was the brother of the daughter-in-law of the accused, who lodged the case against the accused for theft of jewellery during pendency of earlier 498A case. This Court found the said case to be absurd. In Geeta Mehrotra, case was against brother and sister of the husband. Divorce had taken place between the parties. The said cases neither purport to nor can be read as laying down any inflexible rule beyond the principles of quashing which have been mentioned above and applied to the facts of the cases therein which are

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364 (2011) 11 SC 259
365 (2009) 10 SCC 184
366 (2010) 10 SCC 673
367 (2012) 10 SCC 741
368 (2012) 8 SCC 460
distinguishable. In the present case the factual matrix is different from the said cases. Applying the settled principles, it cannot be held that there is no triable case against the accused.”

In the present case, the bench decided that, “There are allegations against Respondent No.2 and his parents for harassing the complainant, which forced her to leave the matrimonial home. Even now she continues to be separated from the matrimonial home as she apprehends lack of security and safety and proper environment in the matrimonial home. The question whether the appellant has in fact been harassed and treated with cruelty is a matter of trial but at this stage, it cannot be said that no case is made out. Thus, quashing of proceedings before the trial is not permissible. Accordingly, we set aside the impugned order passed by the High Court.”

It’s easy to forget the spate of horrific headlines of dowry deaths, then described as “bride burning” or disguised as “kitchen accidents”, which preceded the Dowry Prohibition Act of 1983. A sustained anti-dowry movement resulted in an expanded definition of dowry to include inducements given before and after marriage, the shift of the burden of proof to the person being prosecuted, mandatory police investigation into all dowry complaints and penal sections to deal with cruelty by the husband and his kin. Dowry deaths had become so frequent that any unnatural death of a woman within seven years of marriage was deemed to be grounds for investigation under the new law. Despite these stringent provisions, the practice of giving dowry and dowry deaths, continue. The judgment looked at NCRB figures of arrest under section 498-A for 2015, but did not mention the increase in the number of dowry deaths, a 22% rise between 2005 and 2015. Yet, in 2015, only 15% of dowry deaths had been disposed of by the courts, as found by India Spend Report. In other words, while dowry deaths have been increasing, the number of convictions has remained more or less the same over the past decade. Is section 498-A misused by women?

In one other case, Chamel Singh & Anr. V. State of Haryana & Anr., the petition was made under s. 482, Cr.P.C. for quashing the F.I.R. for the charges under s. 323, 406, 498A, 506 and s. 34, I.P.C. Before the recording of the F.I.R., a complaint was made by a lady that, “The petitioners are the in-laws of the complainant/respondent No.2 Manju Rani, who was

married to their son Krishan Kumar on 10.10.2010. She had made a complaint to Chandigarh police against the petitioners, her husband Krishan, brother-in-law Darshan Singh, his wife Rubby and sister-in-law Seema. It was alleged that the complainant was working as a Constable in Haryana Police. After the marriage, she was harassed and beaten by the accused for bringing dowry. Earlier she had filed a complaint before the Women Cell, where her brother was beaten by her husband and father-in-law, but with the intervention of respectable, the matter was compromised. She then joined her husband at Sirsa where he was posted as Assistant Manager in a bank. There also she was beaten by her husband on trivial issues and the accused interfered in their matrimonial life. The allegations were that and on the instigation of parents in-law, brother-in-law, his wife and sister-in-law, Krishan Kumar used to give beatings to her and pressurized her to bring a car. On 03.06.2013 her husband had given beatings that she became unconscious. The police took her to Civil Hospital for treatment and booked her husband under Section 107/151 Cr.P.C. The complainant also apprehended danger to her life at the hands of her husband, father-in-law and brother-in-law.”

The court has taken the help of various judgments, while deciding the appeal, as, “In Arnesh Kumar v. State of Bihar & Anr., the Hon'ble Apex Court observed that the fact that Section 498A, IPC is a cognizable and non-bailable offence had lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision. Further, in the case of Preeti Gupta & Anr. v. State of Jharkhand & Anr., the Hon'ble Apex Court observed that a serious relook of the entire provisions of Section 498A, IPC is warranted by the legislation. It was observed that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a very large number of cases. In that case the Hon'ble Apex Court quashed the criminal proceedings against brother and sister of husband, living separately. Furthermore, in the case of State of Haryana & Ors. v. Ch. Bhajan Lal & Ors., the Hon'ble Supreme Court had observed that where the proceeding is instituted with an ulterior motive or where the allegations

370 2014 (3) RCR (Crl.) 527
371 2010 AIR (SC) 3363
372 1991(1) RCR (Crl.) 383 (SC)
made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint/ FIR. In the considered opinion of this Court, the continuance of prosecution against the petitioners would be sheer abuse of the process of law and it is liable to be quashed with an object to meet the ends of justice.”

Justice Anita Chaudhry, of High Court of Punjab and Haryana, held in the present appeal that, “In view of the discussion made above, the instant petition is allowed. The impugned FIR and consequent proceedings taken therein, against the petitioners, are quashed.”

There is a tendency to misuse these provisions. But, just because a law can be misused does not mean the law should be diluted. The problem with divorce cases is that cases tend to drag on for years, and even when they reach their conclusion, fair settlements, particularly in a country, where income and assets can be concealed by proxy ownerships and joint family holdings, are hard to come by. In *Indu Bala v. Vipin Sharma*, the bench, comprising of Justice Rajive Bhalla and Justice Rekha Mittal, of the High Court of Punjab and Haryana, decided the appeal by stating that, “The learned trial Court in paras 15 to 18 has discussed the material on record, adduced by the appellant (wife) but concluded in para 19 that the appellant has not been able to substantiate the allegations of cruelty either in respect of demand of dowry or consequent maltreatment. On a careful consideration of pleadings of the parties, statement of the appellant and her father and the discussion / observations recorded in paras 15 to 18 of the judgment of the learned trial Court, we are unable to accept the contentions of the appellant that the findings recorded by the learned trial Court are either the result of wrong reading of evidence or non application of mind. The learned trial Court has noticed that the appellant in the petition has made reference to certain dates when she was allegedly given beatings, the dates on which the matter was reported to the police and was compromised but in her statement on affidavit in examination in chief, she for the reasons best known, has not made reference to any of the dates. As per plea of the appellant, she was given beatings on 07.12.2005, 10.12.2007 and the matter was reported to the police but the respondent and his family members confessed their guilt and compromise was reduced in writing. She did not produce any document either in regard to information to the police or the respondent and his family members having confessed their guilt.

or a settlement by way of compromise having been reduced into writing. As is well known, it is very easy to level allegations but it is difficult to substantiate the same. The appellant failed to adduce tangible, cogent and convincing evidence to establish her plea that she was subject to cruelty of the kind that can constitute a ground for a decree of divorce. We would hasten to add that it appears that as the appellant has done 10+2 and a course of beautician whereas the respondent (husband) is illiterate and was residing in the village, the appellant was not feeling comfortable during her stay in the matrimonial home and for that reason she even raised a demand for separate residence in the city. Admittedly, the parents, brother and the uncles of the appellant are facing criminal trial for offence punishable under Section 326 IPC for inflicting injuries to the respondent (husband). The learned trial Court, on a detailed consideration of the pleadings of the parties, evidence adduced by the appellant has correctly recorded a positive finding that the appellant (wife) has failed to establish that she was subject to cruelty in the matrimonial home and therefore, negate her plea for grant of a decree of divorce. We do not find any error much less illegality in the findings recorded by the learned trial Court. The mere fact that the respondent (husband) did not pay maintenance pendente lite before the trial Court as resulted in denying him to raise any defence or adduce any evidence, is not sufficient to record a finding that the respondent is guilty of cruelty and the marriage of the parties is liable to be dissolved. In view of what has been discussed hereinabove, finding no merit, the appeal is dismissed.”

Women tend to use section 498-A as leverage to get financial settlements and short-circuit dilatory court proceedings. It’s the consequence of the misuse of the law that, “The threat of an arrest might be effective, but once an arrest is made, then husbands don’t care. So, it’s a bad strategy. Terror cases result in acquittals after dragging on for 15 years. But, does anyone suggest that we get rid of terror laws? The IPC already has provisions against those, who file false complaints. False information with the intent to cause a public servant to use his lawful powers to cause injury to another person is punishable by six months in jail. Lawyers have, by and large, welcomed the Supreme Court judgment that asks for an inquiry before arrest into all offences that carry less than sentences less than seven years in jail. It basically tells cops that they must do their job and conduct investigations before an arrest. Yet, everyone agrees that the misuse of a law, regardless of why it happens, is bad.” In Kaushal Dev and Anr. V. State of
Justice Anita Chaudhry, of the High Court of Punjab and Haryana, considered various cases as, Sher Singh @ Partapa v. State of Haryana, Baljinder Kaur v. State of Punjab, Bakshish Ram and another v. State of Punjab and Durga Prasad v. State of M.P. and held that, “The prosecution witnesses were not able to give the telephone numbers, mobile numbers, being used by them. The complainant belongs to a poor background and it is doubtful as to whether he could afford a telephone and this is the reason that he was not in a position to give the phone numbers. He could not have forgotten his own number. The son also evaded the question, therefore, it is doubtful as to whether the daughter had been speaking to her parents, relating to her plight as projected by the prosecution. The parents have not spoken about the visit made to the in-laws house immediately before the incident and in my view the prosecution had failed to lead evidence to show that the girl was subjected to any cruelty or harassment in connection with the demand of dowry soon before her death. It was the husband and the in-laws, who had brought her to the hospital. The provisions of Section 304B, I.P.C. could apply when the occurrence of death was caused by burns or bodily injury or otherwise than under normal circumstances. The intention behind the section 304B, I.P.C. is to fasten the guilt of the husband or in-laws, though they may not have caused the death. The statement made by the brother is hearsay. There is no evidence in connection to demand of the dowry. The prosecution was obligated to show that soon before the occurrence there was cruelty and harassment which they have failed. In the light of the above, it is held that the prosecution had failed to establish the guilt beyond reasonable doubt and the trial Court had committed error in convicting the appellants. The appeal is allowed and the impugned order of the High Court, convicting the appellants, is set aside.”

Under the law, divorce is not easy. This results in the filing of false complaints and the harassment of husbands and their families. If the courts made it easier for men and women to

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375 2015 (2) SCC (Cri.) 422
376 2015 (2) SCC 629
377 2013 (4) SCC 131
378 2010 (3) RCR (Criminal) 219
obtain divorce, the filing of false complaints would fall. The courts are constantly pushing towards mediation in matrimonial matters. When you try and push people towards mediation, section 498-A ends up becoming the leverage. Even lawyers advise wives to use this section, so that they can reach a settlement soon.

6.3. Cruelty – The Supreme Court of India versus The Law Commission of India

The “marriage” is termed as the combination of two hearts, combination of two families, sacred ceremony and a lot of terms. But, one thing, which is stigma on this sacred ceremony, is the business of dowry. 379 This business is the reason for those innumerable atrocities, which are suffered by the married woman, along with her parents. Law made several efforts for making the position of the married woman strong at the in-law’s house and inserted s. 498A in the Indian Penal Code for imposing limitations over her husband and in-laws, so that the persons committing violence over the married woman for the want of dowry may be encircled and punished. But, as the misuse of the laws in India starts first before the proper use of it, same was happened with s. 498A, I.P.C. The innocent persons have been thrown into jail, along with the actual accused persons.

The Supreme Court of India was distressed from the contemporary situation in that regard. After considering that s. 498A is a weapon in the hands of the wife and her parents for making pressure over the husband and his parents, even the Law Commission had recommended twice to make the provision as compoundable. On 30th July, 2010, the Supreme Court said to the Government of India to make s. 498A as compoundable. The Law Commission had also recommended to make the offence under s. 498A, I.P.C. as compoundable offence 20 years before in its 154th Report in 1996 and again in its 177th Report in 2001. The commission said that it was observed that s. 498A was frequently used to harass the parents of the husband and the said provision was the weapon for making pressure in the hands of the parents of the wife, who

used them to control the husband as per their wish. So, the commission had recommended to put the offence under s. 498A in the list of the compoundable offences under s. 320, Cr.P.C, which would permit the parties to compromise with the permission of the court. Under s. 320, Cr.P.C., with the permission of the court, parties may remit the offences of each other. The requirement of the permission of the court is to monitor that the parties have compromised without any force and with their own will and wish. According to the Supreme Court, if the said provision would be made compoundable, then thousands of cases will be disposed of due to compromise between parties and people will not have to go to jail for without any purpose.

6.3.1. Various cases and the disputes relating to s. 498A, I.P.C.

In the case of **Indraj Malik v. Smt. Sunita Malik**, the subsection 498A, I.P.C. was challenged on the grounds that it violates article 14 and 20 (2) of the Constitution of India, because the said law in s. 498A, I.P.C. is also mentioned in the Dowry Prohibition Act. So, this creates the situation of double jeopardy for the husband and his relatives, which is prohibited under article 20 (3) of the Constitution. Delhi High Court held that there is sufficient difference between s. 498A, I.P.C. and s. 4 of the Dowry Prohibition Act, 1961. Under s. 4, the Dowry Prohibition Act, the offence is just to make the demand for dowry, while s. 498A, I.P.C. provides punishment for the resultant situation of the demand for dowry, i.e. cruelty.

The Supreme Court has admitted in **B. S. Joshi v. State of Haryana** that the object of s. 498A, I.P.C. was to solve the problem of exploitation of wife by her husband or her in-laws. The section was added to punish the husband or relatives of the husband, who committed cruelty over the wife to fulfill their demands of dowry. In this case, the wife had alleged the offence of cruelty for dowry against her husband and his relatives. But, later on the matter was sorted out between them. The husband had applied before Punjab and Haryana High Court to quash the proceedings under s. 498A, which was

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380 1989, Cr.L.J. 1510 Delhi  
381 2003 46 SCC 0779; 2003 Cr.L.J. 2028 SC
dismissed by the high court. Then the appeal was filed before the Supreme Court, who
admitted the appeal and also quashed the proceedings under s. 498A.

In Tathapadi Venkat Lakshmi v. State of Andhra Pradesh, Andhra Pradesh High Court held that the offence under s. 498A, I.P.C. is said to be a compoundable offence, but the victim wife cannot withdraw the case under s. 498A, if the charge sheet is filed by the police. In Sarla Prabhakar Waghmare v. State of Maharashtra, Bombay High Court held that s. 498A, I.P.C. does include any type of violence in it, rather for purpose of the prosecution, the burden of proof is on the plaintiff to prove beyond doubt that the husband and his relatives had beaten or exploited her only to force her to commit suicide or for the want of dowry, and nothing else.

In Parbhati Devi and others v. State, the Double Bench of Delhi High Court, comprising Justice Pradeep Nandrajog and Justice Mmukta Gupta, was dealing with a criminal case under s. 302, 498A and 34, I.P.C. As per the story of the prosecution, “Smt. Sheela Devi (hereinafter referred as the deceased) was married to the appellant, Hira Lal, on May 28, 1991. Incidentally, on the same day Asha, who was the younger sister of the deceased was also married to Madan, brother of Hira Lal. Unfortunately, as fate would ordain, none of the sisters attained marital bliss and were cursed to suffer acrimony in their matrimonial home. Appellants, Parbhati Devi (mother-in-law of the deceased) and Gulab Devi (jethani/sisterinlaw of the deceased) would demand dowry at regular intervals and taunt the deceased. The husband, Hira Lal, often quarrelled with the deceased, although as evidence would establish he would not demand dowry. The deceased would also remain perturbed on account of the fact that her younger sister Asha was ill treated by her husband, Madan and in view of such attending circumstances, she was compelled to return to her parental home. On the afternoon of November 05, 1992 the deceased suffered burn injuries in a separate portion of her matrimonial house, located at H. No.

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382 1991 Cr.L.J. 749 AP
383 1990 Cr.L.J. 407 Bombay
RZ-I-25, Mahavir Enclave, Delhi, where she resided with her husband Hira Lal. She was immediately rushed to Deen Dayal Upadhayay Hospital by Hira Lal, where she was attended by Dr. Anjana at around 2:30 PM and consequently MLC was prepared. It was observed that the patient was conscious, coherent and well oriented. The patient had sustained 100% burns that were superficial. The doctor recorded the history that the patient had suffered burns while cooking. At 2:40 PM, D.D. No. 16A, dated November 05, 1992 was recorded at P.S. Dabri on the basis of telephonic intimation given by Ct. Suresh Kumar; Duty Constable deputed at Deen Dayal Upadhayay Hospital. It was informed that one Sheela Devi W/o Hira Lal R/o RZ-G-25, Mahavir Enclave, Palam Road, Delhi was admitted in the hospital by her husband in a burnt condition owing to the injuries suffered due to stove. Investigation of D.D. No.16A was assigned to SI Sudesh Ranga, who proceeded to Deen Dayal Upadhayay Hospital along with Ct. Surinder Singh. In the meanwhile, the deceased was referred to Dr. Ram Manohar Lohia Hospital, where she was shifted by Hira Lal and Gulab Devi. Medical records of Dr. Ram Manohar Lohia Hospital indicate that at the time of admission the deceased was conscious, cooperative and well oriented. History of having suffered burns while cooking was recorded. SI Sudesh Ranga and Ct. Surinder Singh reached Dr. Ram Manohar Lohia Hospital after having obtained a copy of the MLC of the deceased from Deen Dayal Upadhayay Hospital. They sought opinion from the doctor on duty with regard to the fitness of the patient to make a statement. However, by this time i.e. 5:00 PM, the patient was declared unfit for statement by Dr. Rakesh Sharma and an endorsement to the said effect was recorded on the MLC. SI Sudesh Ranga and Ct. Surinder Singh visited the spot of occurrence. Crime Team was summoned and photographs were taken. The Crime Team Report was proved by Inspector Rajbir, who was the incharge of the Crime Team that visited the spot. He deposed that the photographer and a fingerprint expert accompanied him. The photographs were proved by the investigating officer SI Sudesh Ranga. The family members of the deceased were apprised of the incident by the police personnel late at night. Upon receiving this information they also reached Dr.Ram Manohar Lohia Hospital and are stated to have interacted with their injured daughter. Smt.Sheela Devi succumbed to her injuries on November 08, 1992 at Dr.Ram Manohar
Lohia Hospital and was declared dead at 3:25 PM. Therefore Section 302 IPC was added in the FIR.”

After hearing the assertions of both the parties, the bench made the comments that, “We may pause to merely highlight that the investigating agency committed an obvious error by initially invoking Section 306 IPC, inasmuch as the injured was alive at the said point of time and had in fact clearly indicted Gulab Devi in her statement before the Sub Divisional Magistrate. Thus, exfacie there was no material to warrant the applicability of Section 306 IPC. On the contrary, offence punishable under Section 307 IPC ought to have been registered against Gulab Devi. Upon careful scrutiny of the evidence emerging during trial we have no hesitation in concluding that the deceased was subjected to cruelty as envisaged under Section 498A IPC at hands of the appellants. The fact that the previous instances of harassment were not reported to the police does not substantially erode the credibility of such assertions made later in point of time as in our societal milieu there is a tendency to save the marriage even at the cost of suffering atrocities passively in the hope that better sense would prevail upon the in-law's some day. We thus find no merit in the appeals to this extent and endorse the view adopted by the Court below on the charge of Section 498A/34 IPC. For the offence punishable under Section 498A/34 IPC we have already held all the appellants to be guilty and their respective appeals to the said extent are liable to be dismissed. However, we are inclined to modify the sentence awarded by the learned Trial Judge. The appeals preferred by the appellants have been pending since fifteen years. The appellants have no criminal antecedents other than the present case. The appellant is a lady aged more than eighty years as of date and has undergone approximately 11 months in custody. Appellant Gulab Devi is aged more than fifty years and has undergone approximately two years four months in custody. Appellant, Hira Lal is also aged around fifty years and has undergone incarceration for approximately four months. We may notice that the deceased in her letters addressed to her father categorically stated that Hira Lal had reformed considerably and would intervene to protect her from being harassed by his relatives. The deceased also stated in her statement recorded before the Sub-Divisional Magistrate that Hira Lal never raised demands for dowry. In view of the circumstances delineated above, we feel that it would be expedient and in the interest of justice to sentence the appellants
to the period already undergone by them in custody for the offence punishable under Section 498A/34 IPC.”

The Supreme Court made it clear in Shanti v. State of Haryana\(^{385}\) that the term “cruelty” in s. 304-B of I.P.C. has the same meaning as provided in the explanation of s. 498A, I.P.C. Where offences under s. 304-B and s. 498A are charged upon the accused, both the offences will have to be proved, but he is not needed to be punished separately under s. 498A because he is going to be punished under s. 304-B for the resultant and more grievous situation.

6.3.2. Benefit of doubt goes to the accused

In Suman v. Mukesh\(^{386}\), a complaint was lodged by the complainant lady under s. 498A, 323, 406 and 506, I.P.C. against her husband. Trial court did not found any substance in the prosecution case and ordered for acquitting the accused from the said charges. The complainant lady filed an application under s. 378 (4), Cr.P.C. to take permission of the trial court for making an appeal to the High Court, which was dismissed. Further appeal was made to the High Court of Punjab and Haryana against the order of acquittal of the trial court. Justice Daya Chaudhary of the High Court of Punjab and Haryana stated in the present case that, “Limited scope is there to interfere with the judgment of acquittal, unless it is proved that the findings recorded by the trial Court is contrary to the evidence or the trial Court has not appreciated the evidence available on record. In case, two views are possible, one view accepted by the trial Court, if goes in favour of the accused, then the benefit goes to the accused. Complaint filed by the applicant under sections 498A, 323, 406 and 506 of I.P.C. has been dismissed and the accused/respondent has been acquitted of the charge. Neither any demand nor any entrustment of dowry or causing any injury to the applicant has been proved. Acquittal, held proper.”

\(^{385}\) AIR 1991 SC 1226

\(^{386}\) 2016 (3) R.C.R. (Criminal) 795: 2016 (3) Cri.CC 768
From the analysis of the above stated cases it is sufficient to prove that courts are capable of the examination of the actual position of the cases by its process of investigation and analysis, and by doing this, it is in the hands of courts to prevent the misuse of the laws by women for their personal benefits. It is the job of the courts to do the justice, and for this purpose it is in the hands of the courts to testify the cases for finding out the truth. Courts will have to come out the oil and truth as swan does, so as to be the protector of the harassed men. If the courts will keep the right view, then s. 498A will be considered as the section to protect, and not to harass, because according to the social position, men and their families have the need of a strong support of the law and the courts.

A latest case law on this point is Govindaswamy v. State of Kerala,\(^{387}\) in which the Bench of the Supreme Court of India, comprising Justice Ranjan Gogoi, Justice Prafulla C. Pant and Justice Uday Umesh Lalit, took sue moto action after a blog published by retired Justice Markandey Katju in facebook. The Bench, while relying on Bassappa v. State\(^{388}\) and Joginder Singh v. State of Punjab,\(^{389}\) commented that, “Review of a judgment in a criminal proceeding is provided for by the Supreme Court Rules, 2013 (Part IV Order XLVII] is only in a situation where there is an error apparent on the face of the record. What is an error apparent on the face of the record need not detain the Court. Suffice it will be to say that an error which is sought to be established by a long process of reasoning would not be such an error. This is an aspect that will have to be kept in mind while we proceed to consider the very elaborate arguments advanced by the learned counsels for the State of Kerala and the mother of victim and the assistance offered/rendered by Mr. Justice Markandey Katju at our request. The views of Justice Katju are in no way in addition to or different from what has been argued by Shri K.T.S. Tulsi, learned senior counsel and Shri Mukul Rohatgi, learned Attorney General on behalf of the State of Kerala in the Review Petition filed by the State and also Shri

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\(^{387}\) Criminal Appeal Nos. 1584-1585 of 2014, Decided on Nov. 11, 2016.

\(^{388}\) AIR 1980 Mysore 228

\(^{389}\) 1980 (1) SCC 493
Ahmadi and Shri Luthra learned senior counsel appearing for the review petitioner in Review Petition D. No. 32189/2016 i.e. the mother of the unfortunate victim. Though there are several limbs of the arguments advanced, the area of concentration may be conveniently compartmentalized into two. First, it is urged that the Court has erred in relying on inadmissible evidence being the hearsay evidence of P.W.4 (Tomy Devassia) and P.W.40 (Abdul Shukkur). It is contended that such hearsay evidence ought to have been rejected summarily and could not have gone into the process of determination of the culpability of the accused as has been done in the impugned judgment. The issue with regard to hearsay evidence centers round a part of the deposition of P.W. 4 and P.W. 40 who testified before the Court in their examination-in-chief that though they wanted to stop the moving train by pulling the alarm chain they were dissuaded by a middleaged man who was standing at the door of the compartment by saying that the victim/girl had jumped out from the train and escaped and that she was alive. The Court in its judgment dated 15th September, 2016 took the aforesaid part of the deposition as a piece of relevant material for adjudication of the issue before it and held that on the face of the aforesaid evidence Injury No.2 cannot be ascribed to the accused. According to the medical evidence placed on record by the prosecution Injury No.1 (the involvement of the accused in respect of which there is no doubt) coupled with Injury No.2 had led to the death of the victim girl. The very elaborate argument advanced on this score is capable of being answered by a reference to Section 6 and Illustration (a) thereof of the Evidence Act, 1872 which engrafts in the Evidence Act the principle of res gestae. The statement made by the middleaged man to P.Ws.4 and 40 being contemporaneous and spontaneous and that also being the prosecution case and no attempt having been made to discredit this part of the evidence tendered, we are of the view that in a case where the liability of the accused is to be judged on the touchstone of the circumstantial evidence the aforesaid part of the deposition of P.Ws. 4 and 40 must go into the process of determination of the culpability of the accused to rule out any other hypothesis inconsistent with the guilt of the accused. The next limb of the case projected before the Court at this stage is that the offence of murder falls within the Third and Fourth clause of Section 300 of the Indian Penal Code, 1860 ("IPC" for short). In this regard, reliance, on the earlier date of hearing, was placed by Shri Mukul Rohatgi, learned Attorney General for India on two decisions;
one reported in the case of Bassappa and others v. State,\(^\text{390}\) and another decision of this Court reported in Joginder Singh and another v. State of Punjab.\(^\text{391}\) It is submitted, relying on the said judgments, that even if the controversy as to whether the deceased was pushed or had voluntarily jumped is to be answered in favour of the accused, the said accused would still be liable for Injury No. 2.”

The Bench further stated that, “In Bassappa and others v. State, the Mysore High Court was confronted with a situation where the deceased was on the roof of the house of accused No.3 alongwith P.W.2, watching the burning haystacks belonging to the accused. The accused perceived that the deceased and P.W.2 were enjoying the misery of the accused whose haystacks were burning. There was a history of previous enmity between the parties. Apparently, at the spot i.e. roof of the house, the accused assaulted the deceased on the nape of the neck with sharpedged weapons whereupon the deceased jumped from the roof. Thereafter, the accused threw the deceased into the burning haystacks. The medical opinion in the case was inconclusive, namely, whether the death was caused by the wounds sustained by sharpedged weapons or from the fall or from burning. The High Court doubted the evidence of P.W. 1, the doctor so far as cause of death due to jumping by the accused from the roof is concerned. However, it held that even if the said evidence is to be accepted the accused would still be guilty of murder. The reasoning appears to be that though the three circumstances in which death had occurred are different, yet, having regard to the close proximity of time in which they had occurred and the inter connection between the same the three incidents may be taken as one. What cannot be ignored is that in the Mysore case intention to cause death or atleast a bodily injury to bring the case within the third and fourth clause of Section 300 is more than evident from the injuries caused by the accused on the nape of the neck by sharp weapons or by throwing the victim in to the burning haystack. It is on the said basis that the conclusion holding the accused guilty under Section 302 IPC was returned by the High Court. We do not see how the said judgment can have any application to the facts of

\(^{390}\) AIR 1980 Mysore 228
\(^{391}\) (1980) 1 SCC 493
the present case wherein the role of the accused in causing injury No. 2 by pushing the victim out of train is not free from doubt and the medical opinion is to the effect that Injury NO. 1, by itself, was not sufficient to cause death. In Joginder Singh and another v. State of Punjab, the accused apparently chased the deceased with dangerous weapons across a field. At the distance of about 1520 feet from the accused, the deceased jumped into a Well, hit his head on the side of the wall of the Well and drowned himself. This Court while deciding the culpability of the deceased in the aforesaid circumstances of the offence of murder exonerated the accused by recording the view that we will now deal with the death of Rupinder Singh. After Kuldip Singh was attacked, Rupinder Singh ran from his house towards the fields. He was followed, apparently chased by Joginder Singh and Balwinder Singh. According to PW 1, Rupinder Singh jumped into a well 'in order to save himself'. Joginder Singh and Balwinder Singh were about 15 to 20 feet from Rupinder Singh when he jumped into the well. It is not the case of the prosecution nor is there any evidence to justify such a case, that the accused drove Rupinder Singh to jump into the well leaving him no option except to do so. From the evidence of PW 1 we are unable to get a clear picture of this part of the incident. It is not the case of the prosecution that Rupinder Singh was beaten on the head and then thrown into the well. According to the medical evidence he received an injury on the head which made him lose consciousness and thereafter he died of asphyxia, due to drowning. Apparently when Rupinder Singh jumped into the well his head hit a hard substance with the result that he lost consciousness and thereafter died of asphyxia. In the circumstances of the case we are unable to say that the death of Rupinder Singh was homicidal, though we are conscious of the fact that what induced Rupinder Singh to jump into the well was the circumstance that Joginder Singh and Balwinder Singh were following him closely. If we were satisfied that Joginder Singh and Balwinder Singh drove him to jump into the well without the option of pursuing any other course, the result might have been different. As the evidence stands we are unable to hold that the death of Rupinder Singh was caused by the doing of an act by Joginder Singh and Balwinder Singh with the intention or knowledge specified in Section 299, Indian Penal Code. Joginder Singh and Balwinder Singh are, therefore, entitled to be acquitted of the charge of murdering Rupinder Singh. No other decision has been pointed out to us. In this regard, we may also usefully notice
the provisions of Section 113A of the Indian Evidence Act, 1872 which engrafts the principle of presumption to be drawn from the acts of cruelty in order to hold a husband guilty of abetment of suicide by the wife. The legislative wisdom has not engrafted any such principle of presumption insofar as the offence of murder is concerned. Though the scope of the present review petitions is confined to the above two questions, certain incidental questions, including an alleged confessional statement made by the accused before P.W. 47 were also urged. Suffice it will be to say that the aforesaid extrajudicial confession cannot inspire confidence of the Court because of the circumstances surrounding the same. It is perhaps for this reason that the said plea was not advanced before us by the learned State counsel in the course of hearing of the main appeal. Consequently and for the reasons aforesaid, the review petitions filed by the State of Kerala and the mother of victim and also the suo motu review petition entertained by us have to fail and are dismissed. We order accordingly. We record our deep appreciation to Mr. Justice Markandey Katju, former judge of this Court for the assistance rendered to the Court.”

6.3.3. Suicide note not enough for arrest

In a state (Tamilnadu) that has the dubious distinction of topping the suicide chart in the country, this court order makes a lot of sense. Taking the wind out of "incriminating suicide notes", naming specific people as responsible, Justice P. Devadass of the Madras high court said, granting bail to a 20-year-old youth, arrested after a 15 year old girl, killed self and named him as responsible that, “mere abuses or a casual remark or words, uttered in a fit of anger, could not be termed as abetment and people named cannot be arrested and jailed. Suicide is an act of cowardice and people can't be punished for somebody's foolish decision. Merely because a person has been named in a suicide note, courts should not immediately jump to the conclusion that he is an offender. If a person makes an ordinary joke or a casual remark in routine course of ordinary life, and then if the victim commits suicide, that will not attract abetment charges under

Section 306 of the IPC. Simple abuses are not sufficient to provoke a person to commit suicide. If a debtor commits suicide simply because the lender has demanded repayment of his money, the creditor cannot be said to have abetted the suicide. Mere reprimanding does not amount to instigation. Words, stated in a fit of anger, will not amount to abetment. Casual remark of husband towards his wife in the ordinary course of life will not amount to abetment to commit suicide.”

What, then, will attract the instigation charges? Justice Devadass said, “The offence of abetment requires mens rea (guilty mind). There must be intentional doing/aiding or goading the commission of suicide by another. If a person's name is found in a suicide note, instead of straightaway treating him as an instigator for the tragic death, authorities should examine contents of the suicide note and the circumstances. There may be a case, wherein the suicide note had named a person as responsible, but on proper analysis, Section 306 may not be attracted.” Noting that suicide is self-killing and self-murder, where an individual terminates his own physical existence, the judge said the law tackles the menace indirectly by making any attempt to commit suicide a punishable offence under Section 309, I.P.C.

The facts of the case was that, “The youth was arrested on April 1, 2014, after the girl killed herself at her residence in Chennai, leaving behind a suicide note, saying that she was forced to take the extreme step because the boy's love did not allow her to concentrate on her studies and that it would humiliate her entire family. Prosecution opposed the youth's bail plea, saying that the suicide note clearly mentioned his name and hence, he could not be released on bail.” Granting him bail and rejecting the prosecution's objections, Justice Devadass said that, “There was no overt act by the youth that forced the girl to commit suicide. For her foolish decision, the youth cannot be blamed. There was no intentional doing or instigation on his part, provoking her to commit suicide. A person may die like a coward. On his failure in examinations, a student may commit suicide. They are weak-minded and persons of frail mentality. For their foolish mentality/decision, another person cannot be blamed.”
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*, 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.”

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Further, the bench, while referring the judgments in case of Ghusabhai Raisangbhai Chorasiya v. State of Gujarat, Ghusabhai Raisangbhai Chorasiya v. State of Gujarat, Giridhar Shankar Tawade v. State of Maharashtra, Gurnaib Singh v. State of Punjab and Pinakin Mahipatray Rawal v. State of Gujarat, 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

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.”

6.3.4. In-laws living separate are not in ambit of “domestic violence”

Domestic Violence Act does not apply to any of the members of the family, who are living far away and separate from the couple. It means that the lady, living with husband and separate from the in-laws, cannot demand for the protection under Domestic Violence Act, giving reason that she is harassed by the in-laws. This comment was made by the Delhi High Court Judge, J. P. Mittal on 14th April, 2013, while hearing on a
petition, filed by India-based American citizen lady. The court made it clear that instead of filing complaint under Domestic Violence Act, she should have demanded protection under Indian Penal Code. The court dismissed that petition of the victim lady, in which she had demanded protection from her in-laws. In its decision, the court said that in that case the plaintiff lady went to America just after marrying, and her in-laws were also not involved into her marriage. Further, after returning from America, the lady was residing at Delhi and her in-laws were residing at Mumbai. That’s why, her husband came in the ambit of Domestic Violence Act, and not her in-laws.

In *Poonam Nagar v. State of Haryana and anr.*, Justice Rameshwar Singh Malik of the High Court of Punjab and Haryana 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 unhesitatingly 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*

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*399 2016 (1) RCR (Criminal) 119: 2016 (1) Cri.CC 539*

In Ram Saran Varshney and others v. Stae of Uttar Pradesh and another,\textsuperscript{407} 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 this case, relating to

\begin{itemize}
\item \textsuperscript{400}1991 (1) R.C.R. (Criminal) 383: AIR 1992 SC 604
\item \textsuperscript{401}2012 (4) R.C.R. (Criminal) 812: 2012 (5) Recent Apex Judgments (R.A.J.) 396
\item \textsuperscript{402}2013 (2) RCR (Criminal) 217: 2013 (2) Recent Apex Judgments (R.A.J.) 102: 2013 (5) SCC 226 (SC)
\item \textsuperscript{403}(P&H) 2012 (8) RCR (Criminal) 428
\item \textsuperscript{404}CRM-M-36189-2010, Decided on July 31, 2015
\item \textsuperscript{405}CRM-M-8495-2014, Decided on Aug. 17, 2015: 2015 (4) RCR (Criminal) 340
\item \textsuperscript{406}CRM-M-12551-2012, Decided on Sep. 03, 2015
\end{itemize}
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.”

6.3.5. The husband acquitted in dowry death case

A man, facing trial in his wife's dowry death case, had been acquitted by a Delhi court, which said the prosecution had failed to prove that he treated the victim with cruelty or harassed her. District Judge, J. R. Aryan, acquitted, Anil Charwah, a resident of North East Delhi, while noting that the statements of mother, father and cousin of deceased Lipika could not establish that Anil had ill-treated his wife, who allegedly committed suicide by hanging herself. The judge said that there was nothing to suggest that accused, Anil, treated deceased with cruelty or harassment, if that demand was not met or was not going to be fulfilled. There was no independent evidence, if Anil ever committed any act of cruelty to deceased. Prosecution's charge cannot be held proved beyond doubt. Accused deserved to be acquitted. He was acquitted of the charge.

Lipika, mother of an infant, was found hanging in her matrimonial house in September 2011. Anil, who was in love with Lipika and had married her in 2009 against the wishes of her family, was accused of dowry death and cruelly treating her. According to the prosecution, the complaint was lodged by the victim's mother, in which she had said that hours before Lipika died, the couple had met her at a relative's house, where her daughter asked for Rs 50,000 on behalf of Anil, as he wanted to start a business. When she refused to pay the amount, Anil got angry and forcefully took his wife away, while uttering some harsh words, it said, adding that the next day, she got to know about Lipika's death. Lipika's mother had told the court that earlier also, Anil had physically

408 www.accessify.com, Last visited on Nov 09, 2014
tortured her daughter and he used to pressurise her for bringing more dowry and the victim had shown signs of assault on her body many times. The court, however, held that "the witness (mother) deposed in a casual manner, without specifying any date or incident that accused started taunting the deceased about inadequacy of dowry." The court also said that for about one-and-a-half year of the marriage of the victim, her family did not keep any contact with their daughter, since she had married Anil, who belonged to a different caste, against their wish.

During the trial, Anil pleaded innocence and said that at no point of time he had ever committed any kind of harassment or cruelty to Lipika. The judge, while acquitting Anil, also relied on the testimony of his neighbour, which stated that the couple had cordial relations and he had never seen them quarrelling.

In another case of, Ashok v. State of Maharashtra,\(^409\) in which the High Court of Bombay, Nagpur Bench in Criminal Appeal No. 296 of 2010 upheld the conviction of the accused husband under s. 302, 201 and 498A, I.P.C., the bench, comprising of Justice Pinaki Chandra Ghose and Justice N. V. Ramana, of the Supreme Court of India, acquitted the accused husband from the said charges. The bench, comprising of the Supreme Court of India considered a lot of judgments before deciding this appeal. The bench observed the theory of “last seen together”, as was enumerated in Trimukh Marotiu Kirkan v. State of Maharashtra,\(^410\) in which it was stated that, “an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence takes place in the dwelling home, where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime. Thus, the doctrine of last seen together shifts the burden of proof on the accused, requiring him to explain how the incident had occurred. Failure on the part of

\(^409\) Criminal Appeal No. 2224 of 2011, Decided on March 11, 2015.
\(^410\) (2006) 10 SCC 106
the accused to furnish any explanation in this regard, would give rise to a very strong presumption against him.” The bench took into consideration the observation made by the court in Harivadan Babubhai Patel v. State of Gujarat\(^4\) and Kanhaiya Lal v. State of Rajasthan\(^5\) that, “the circumstance of last seen together does not by itself and necessarily lead to the inference that it was the accused who committed the crime. There must be something more establishing the connectivity between the accused and the crime. Mere non-explanation on the part of the accused by itself cannot lead to the proof of guilt against the accused.” After concluding all the facts, arguments and various judgments, the bench reached at the conclusion that, “We find no merit in the Trial Court’s reasoning in finding the facts that accused asked his colleague to prepare dinner, filing missing report on the next morning and leaving the family at HP Gas Agency as incriminating pieces of evidence. The accused could have asked his friend and colleague to prepare dinner in normal course as he would have got late in returning from Wadsa. Further, it was but natural for the accused to search and try to find out his family even before he would go to the police. We do not find it was unnatural to have registered a missing report the very next morning. Also, leaving wife and two daughters at HP Gas Agency is not so unusual and would depend from person to person. With respect to previous incidents, all that is proved is demand of dowry by the in-laws and the accused/appellant. The allegation that husband would not sleep with the deceased wife when his parents would visit, is the only allegation against the accused-appellant. From the above discussion, we conclude that the prosecution has not brought any clinching evidence in support of last seen together theory so as to shift the burden of proof on the accused-appellant. In light of this, the prosecution has evidently failed to prove the guilt of the accused/appellant beyond doubt. Therefore, the appeal is allowed and the judgment and order passed by the High Court as also by the Trial Court, convicting the accused husband under the above stated charges, are set aside. The appellant is directed to be released forthwith, if not required in connection with any other case.”

\(^4\)(2013) 7 SCC 45

\(^5\)(2014) 4 SCC 715
6.4. Women lodging false rape cases should be punished

Time has come for courts to deal firmly with women filing false rape complaints, as they are tormentors warranting punishment.\footnote{www.publication.samachar.com, Last visited on Jan 28, 2015.} False rape cases makes the crime graph shoot up, play havoc with the crime statistics and tend to trivialize the offence of rape and, "no sooner that the news of a person having been accused of rape spreads in the society, he is looked down upon by all and sundry". While the act of rape causes intense emotional distress and immense humiliation to the victim, at the same time one cannot lose sight of the fact that false implication in a rape case causes equal humiliation, disgrace and mental agony to the accused.

In \textit{Ajay Patel @ Sarvan v. The State of U.P.},\footnote{Criminal Appeal No. 4846 of 2014, Decided on May 02, 2016.} Justice Ranjana Pandya while deciding the appeal, against the judgment convicting the accused under s. 363, 366-A, 376 (2), I.P.C., observed the principle laid down in \textit{Mohd. Ali @ Guddu v. State of U.P.}\footnote{2015 (3) SCC (Criminal) 82} that, “Be it clearly stated here delay in lodging FIR in cases under Section 376 IPC would depend upon facts of each case and this Court has given immense allowance to such delay, regard being had to the trauma suffered by the prosecutrix and various other factors, but a significant one, in the present case, it has to be appreciated from a different perspective. The prosecutrix was missing from home. In such a situation, it was a normal expectation that either the mother or the brother would have lodged a missing report at the police station. The same was not done. This action of PW2 really throws a great challenge to common sense. No explanation has been offered for such delay. The learned trial Judge has adverted to this facet on an unacceptable backdrop by referring to the principle that prosecutrix suffered from trauma and the constraint of the social stigma. The prosecutrix at that time was nowhere on the scene. It is the mother who was required to inform the police about missing of her grown up daughter. In the absence of any explanation, it gives rise to a sense of doubt.”
Justice Pandya further stated that, “In the present appeal, the prosecutrix lady was taken on a two wheeler, her mouth was opened. Nobody was pressing it. There is no reason why the victim did not raise alarm when her mouth was opened and the accused were unarmed. In cross-examination, this witness has further stated that she had stated to the Magistrate that on the next day of occurrence at 11:00 p.m., she was left near her house. She has stated that on the next day, the accused left her at her house. If this would have been actual position, there was no reason why the written report could not have been lodged the next day when the victim had returned home and had narrated the whole incident to her family members. Thus, what has been stated and discussed above, I conclude that the prosecution case is bundle of false allegations and improbable facts, due to which the learned trial court misled itself and has incorrectly convicted the accused, such conviction cannot be sustained in the eyes of law, as such the accused is entitled to be acquitted and the appeal is liable to be allowed. Hence, the impugned judgement and order of conviction and sentence dated 23.09.2014 passed by the learned Additional Sessions Judge, Court No. 2, Varanasi in Sessions Trial No. 21 of 2012 (State vs Ajay Patel alias Sarvan) arising out of Case Crime No. 210 of 2011, under sections 363, 366A, 376 IPC, Police Station Rohaniya, District Varanasi, is hereby set aside.”

According to Additional Sessions Judge, Virender Bhat, at a Delhi Court, “He (rape accused) as well as his family is ostracised from the mainstream. He is humiliated and ridiculed everywhere. Even his honourable acquittal by the court is not taken note of and does little to salvage his lost honour and dignity. He has to live with the trauma of having been a rape accused throughout his life”. The court made the remarks, while directing lodging of a complaint against a woman, who had registered a false rape case against a Delhi businessman at the behest of someone, who wanted to settle scores with him. The court observed that, “the court would be failing in its duty, if appropriate proceedings are not initiated against the prosecutrix (woman) for giving false evidence against the accused. The businessman was acquitted. Based upon the evidence led by the parties, it was manifest that the prosecutrix had lodged a false complaint of rape against the accused at the behest of somebody else, who wanted to settle scores with him. The accused and used prosecutrix as a pawn. That case is a classic example of how men are being falsely implicated in rape cases to settle personal scores with them. That case is a perfect illustration of total misuse of rape laws. Time has come when the courts should deal firmly with
the women filing false complaints of rape. These women, who turn out to be tormentors and not the victims, should be punished under the appropriate provisions of law.”

The accused and the police felt good, after a judgment of Delhi High Court in a rape case.\(^{416}\) A woman, who was married and had three children, leveled the charges of rape against a man, who was just of 22 years, that he raped her on an untrue promise that he would marry her. Against that judgment, the man made an appeal to the Delhi High Court. It was Delhi High Court, which acquitted the man from the false charges of rape, stating that although the lady was living alone, but it was not possible that she had no knowledge of the consequences of her acts, related to such man. Further, there were no chances that she was forcibly made indulged into those activities.

That judgment again presented the factual position, prevailing in our society, where a woman is not ashamed of leveling of false heinous charges against man. She even forget that her own name, her family’s reputation is also getting deteriorated by such conduct. In addition to this, such judgment also brings a situation where a person, may it be man or woman, should be punished for doing the wrong use of the protective laws.

Delhi Commission for Women also presented a report, in which it stated that during May, 2015 to August, 2016, women reported 56.3 % rape cases in the capital of India. Around 2958 reported cases of rape, just 1349 cases are found correct. Means so called, 1609 cases of rape were false and wrong. If one see the record of number of acquittals in these types of rape cases, he will be shocked to see that around 81 % accused persons are acquitted in these trials. Further, the Commission stated that they do their best to do justice with the actual aggrieved party in rape cases. But it can’t be denied that the in many of the cases, the victim himself withdraw or the reason behind registering rape cases is some prior personal grievance of the victim with the so called accused person.

Another case is of Allahabad (Uttar Pradesh), where a female Judicial Officer complained against two persons, who were some relative of the judge itself. The complaint was regarding some negligence and mishandling in the security of her house, situated at Judge’s

Campus at Aligarh (Uttar Pradesh), which was supposed to be in the high security all the time. On that complaint, the High Court ordered CBI to investigate in the matter so that the court got itself confirmed regarding the truthfulness of the complaint of the judicial officer. The court had some suspense also that the lady officer may be misusing her judicial post. That incident shows that even the High Court do not take action on the complaints of its own judicial officers, closing its eyes.

In 2014, one the courts at Delhi stated, “It was becoming a very difficult job now-a-days for the courts to differentiate the genuine rape cases form the false ones.” The court gave such observation, while it was acquitting the four members of a family, in a rape case. Even M. S. Randhawa, DCP South-East, Delhi, stated the factual position that around 60 % cases among all the rape cases are nothing, but the matters related to live-in relationships. But, the police has to record mostly cases, due to which original cases left uninvestigated. The NGOs has the view that as some of the cases are found to be fake, it does not means that the police is not to do anything for the resolving of the case. They should see at the true victim in a true case, so that the justice can be done with the needed person.

The situation, which multiplies the number of rape cases to double and sometimes to triple, is that in which the absconded boy and girl returns home or they have the marriage between them and are founded after few days of the marriage. In such situation, generally father of that girl, levels the charges of the rape against that boy.

As the year 2015 came to an end and we were stepping into the New Year with fresh expectancy, one will be shocked to know that Delhi Police has been registering a huge number of false rape cases, but not knowingly. This was not an off the cuff or off the record statement that can be dismissed as gossip. This was stated in a conference organized by Prayas, which was the first to set up Rape Crisis Intervention Centers (CICs) in the country. Barkha Shukla Singh, Chairperson, Delhi Commission of Women, senior Delhi Police officers and councillors of 11 District CICs of Delhi, who play a vigilant role in such rape cases and some NGOs were present in that program. All of them were had the same voice that Delhi Police react very

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sensitively over these type of cases. In addition to this, they also admitted that they wasted a lot of time over fake cases. In many cases, the police came to the conclusion that either the lady had taken intoxication or the spouse was intoxicated, and brought their small family disputes before the police and higher authorities in the form commission of grievous offences.

There is an ambiguity regarding the live-in relationships, as there are no clear provisions for such relationships. This ambiguity also affects the proceedings of the police. Opposite to this, NGOs has the different view. They think that police needs the provisions relating to the situation live-in relationships, and on the other hand, the police should not take the benefit of non-availability of these provisions while registering for the rape cases. Amod Kanth, General Secretary, Prayas, had made various suggestions to Justice Verma Commission for the betterment of the law, relating to the subject matter. According to him, cases of rape are very typical as there are a lot of persons involved in its trial proceedings, such as doctor, prosecutor, lawyer and the victim herself.

According to Barkha Singh, Chairperson, Delhi Commission for Women, rape cases are stigma over our society. These types of cases should be not accepted in our society, and the women themselves raise the voice, and presently, are raising their voices, which seems from the present data of reporting to the police. She suggested that to improve the present scenario, all the authorities, be it Delhi Police, Department of Social Welfare or the Government, had to come forward jointly. According to Varsha Sharma, DCP in Women and Child Unit, Delhi Police, it is very sensitive to investigate in the rape case, and registering of one more new rape case means a new sensitive track of investigation.

6.4.1. Physical relations, with or without consent

On 11th July, 2015, Additional Districts and Sessions Judge, Fatehabad (Haryana) not only acquitted the accused in a case of rape, but also clearly said to the complainant lady that physical relations cannot be established forcefully for three years without her consent. A lady from Fatehabad had made recorded a case of rape against a man from

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the village Jhalaniyan on 27th September, 2014. She alleged that three years ago the accused had taken her husband with him to the village Jhalaniyan for providing some job and also provided the room there for residing. According to her, when her husband went to the job, the accused made physical relations with her. That activity was continuous. After some time the accused managed for her to get divorce from her husband. The accused continuously made physical relations with her, due to which she gave birth to a child also. The lady alleged in her report to the police that the accused had thrown her along with the child from his house and also refused to get marriage with her.

During the proceedings before the hon’ble court, the accused told to the court that he had not committed rape, rather the lady made the relations with her own consent. According to him, after getting divorce from her husband, the lady had started blackmailing him. He also gave Rs. 10 Lakhs to the lady after selling his land, but she was demanding the right of the child in his property. After hearing both sides, court said that the allegations made by the lady, were baseless. Through these types of allegations, it was proved that the lady and the accused were living in live-in relationship. In her allegations, the lady had also said that she went to Hissar many times along with the accused. In those circumstances, according to the court, both the adult persons, i.e. the lady and the accused, made the physical relations with their mutual consent. Court also made the remark that without the consent of the lady, no man can made the forceful physical relations for three years. Later on, the court acquitted the man from the charges of the rape.

Physical relations made under the love cannot be treated as rape. Where the lady is major and well known about the results and side effects of making physical relations before marriage, there relations are made with mutual consent. Physical relation before marriage is not justified in any of the religion of the world. The couples in love made physical relations in the flow of emotions and later on, if it is said by the lady as rape, is not justified. Sh. Vikar Ahmed Ansari, District and Sessions Judge, Allahabad, acquitted
the accused, Yogesh, from the charges of rape, with the abovesaid observation on 20\textsuperscript{th} Sep., 2014.\textsuperscript{419}

The lady reported an FIR against the accused on 18\textsuperscript{th} Aug., 2012 at Sarai Inayat Police Station (Uttar Pradesh). She alleged against the accused that he made physical relations for a long time after dodging to marry her and later on refused to do so. She gave the statement before the court that she belonged to the scheduled caste. She often came to her father’s sister house at Sujanpur. There she met with Yogesh alias Bablu. Yogesh promised her to marry and on believing on it, she gave the consent for making physical relations. Whenever she asked about the marriage, he ignored that. They were in relation for 4 years. He gave also a mobile to her. After making pressures, one day Yogesh said to her that he belonged to the higher caste, so he could not marry her, and family members were also not agreeing. Then she gave a complaint to the police station. On the basis of the statements given by witnesses, facts of the case and evidences produced before the court, the court found that there was close relation between the both.

In one another case, Sh. Virender Bhatt, Hon’ble Judge, Fast Track Court, Court Complex, Saket (DL) acquitted the accused, hailing from Ghaziabad, from the charges of rape on 25\textsuperscript{th} Oct., 2015.\textsuperscript{420} The court said that if some lady made relations with any man, presuming that the man will marry her, then she can’t claim it as rape later on, as it does not fall in the category of rape. Opposite to it, if some man made relations with some lady, lodging her of marriage, then the charges against the man may be framed. Physical relations made between a man and a woman during the friendship should not be called as rape. The court made the above comments, while acquitting the accused from the charges of rape. Further, the court said that the statements of the complainant lady and of her mother’s are conflicting. According to the complainant lady, the accused forcibly made the physical relations with her at home on 21\textsuperscript{st} Feb., 2013; and on the other side, her mother stated that the complainant lady was happy when she returned to home on the said day, if some force was used against her then she would be unhappy. By the above

\textsuperscript{419} www.indiapress.org, Last visited on Sep 21, 2014.

\textsuperscript{420} www.2inspirelife.net.com, Last visited on Oct 26, 2015.
statements, the court found that the complainant lady did not tell her family about the accused for around 1.5 years. When the accused went to the home of the complainant lady, even then there were no talks about the marriage between the complainant lady and him. The court also rejected the contention of the complainant lady that the accused had taken Rs. 4 lakhs, which she had borrowed from her cousin sister, for the purpose of purchasing of the house in the name of both him and her. On that contention of the complainant lady, the court said that her cousin sister was a simple domestic lady and she had no income of her own. In such circumstances, how could and from where anyone gave such a huge amount to any stranger in the first meeting; and when she had not told the matter to even her husband also. It was clear that the whole story was manipulated. It was apparent from the other evidences also that the complainant lady had friendship with the accused and they made physical relations during that friendship.

One of the courts at Delhi while acquitting a person from the allegations of rape, said that if the husband makes sexual relations even without the consent of his wife, then it will not said to be rape. Additional Session Judge, Virender Bhatt commented that while acquitting a person from the allegations of rape. The lady was living as tenant to the accused. The acquitted person was charged for raping the lady after serving her some intoxicated substance. That person was also charged for raping the lady even after getting marriage with her. The lady herself admitted the fact that she and the accused got married at the house of her aunty (bhua) on 20th July, 2012 in the presence of the maulavi. Both the lady and the accused were legally husband and wife and after that both had physical relations with each other. The court said that even if the complainant lady had no consent in those sexual relations, it could not be said to be rape. The court acquitted the person, Aftab Aalam, saying that the evidence, given by the lady, was doubtful and that could not be relied upon.

The Supreme Court on 20 May, 2013 said that, “if a man has consensual sex with a woman with the intention to marry her, then it cannot be termed as rape, even though

\[421\] www.htmedia.in, Last visited on June 14, 2014.
the marriage does not take place”.\textsuperscript{422} The top court said that while hearing a case, in which an accused was charged with rape, after he failed to marry the girl, with whom he had consensual sex on the promise of marrying her. The Supreme Court of India said that, “Coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise.”

Differentiating consensual sex and rape, the Supreme Court said, “Rape is the most morally and physically reprehensible crime in a society, as it is an assault on the body, mind and privacy of the victim. While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female. Rape reduces a woman to an animal, as it shakes the very core of her life. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim, and therefore, a rape victim is placed on a higher pedestal than an injured witness. Rape is a crime against the entire society and violates the human rights of the victim. Being the most hated crime, rape tantamount to a serious blow to the supreme honour of a woman, and offends both her esteem and dignity. It causes psychological and physical harm to the victim, leaving upon her indelible marks.”

In one other case, a court of the capital of India acquitted the accused husband from the charges of raping his wife.\textsuperscript{423} While giving this decision, the court said that forcefully making physical relation or sexual intercourse with the woman could not be kept in the category of rape, when the complainant lady was in matrimonial relation, and

\textsuperscript{422} [www.ndtv.com](http://www.ndtv.com/), Last visited on May 21, 2013.

\textsuperscript{423} [www.readwhere.com](http://www.readwhere.com), Last visited on May 08, 2014.
married to the accused. The court further said that in case of husband and wife, offence of rape could not be made, if the sexual intercourse had happened even without the will and consent of the victim. According to the lady, the case was that in March, 2014, the accused, Vikas, took her to the office of Marriage Registrar, Ghaziabad in the unconscious condition and made her there to sign the documents of marriage. It was also said that the accused had committed rape with the victim and later on, abandoned her. On 07th May, 2014, while giving the decision in the case, the court said that both the complainant lady and the accused husband were legally married to each other, and the lady was also adult. In such situation, even the forceful sexual intercourse after getting marriage, did not result into the case of rape. Further, there was no evidence to prove that the accused had administered any intoxicated substance to the complainant lady before taking her to the office of Marriage Registrar. On the other hand, the accused husband, while claiming himself to be innocent, pleaded that on 02nd February, 2011 the marriage was solemnised at the house of the complainant lady. He also pleaded that when the lady insisted him, only then he decided to get their marriage registered in the court of Ghaziabad. According to him, his wife got the case of rape recorded only after when he lost the ownership right over the house of his sister’s house. The court, while acquitting the accused, said that court found no evidence in support of the allegations, made by the complainant lady.

A lower court in Haryana had convicted the accused to undergo seven years imprisonment, which was upheld by the Punjab and Haryana High Court. The Supreme Court acquitted the person, who had served three years out of the seven year sentence and ordered his release. The Supreme Court said that, “the girl was at that time 19 years old and had adequate intelligence and maturity to understand the significance and morality associated with the act, she was consenting to. She was conscious of the fact that her marriage may not take place owing to various considerations, including the caste factor. Hence, it could not be said that she had not given her consent for having sex with the accused.”

6.4.2. Breaching the promise to marry is not rape
In its historical decision on 27th March, 2015, Gujarat High Court said that if a man merely breaches the promise to marry, woman can’t allege the charge of rape against him. With that decision, Justice J. B. Pardiwala dismissed a petition filed by a live-in-partner against a man from Surat. He said that if even one assumes that the man had promised to marry her, then to take back steps from it, is not sufficient to allege charge of rape under S.376, IPC. In Surat, Sachin Sangre, who was working as a Sales Manager in a private insurance company, had close relations with his lady employee. After sometime, they started living together. Their relations came to end, nearly around one year after in March, 2012. On 10th March, 2012, Sangre went to the home of his former live-in-partner with the invitation card of his marriage. His marriage was going to be happened after three days. During that period, she filed a complaint in the police station, alleging the charge of backing out from his promise to marry her. Police arrested him and presented the challan under S.376, IPC before the judicial magistrate in 2014. On the petition of Sangre Gujarat High Court acquitted him from all the charges.

In Sandeep Kaur v. State of Punjab and Anr., the bench, comprising of Justice Hemant Gupta and Justice Lisa Gill, of the High Court of Punjab and Haryana, observed that, “Conviction of accused can be based on sole testimony of prosecutrix of rape, in case Court feels the testimony of prosecutrix is trustworthy and inspires confidence. It is not always necessary to seek corroboration thereof. In the present case, the prosecutrix of rape is a widow over 30 years, having two children and running a beauty parlour. Prosecutrix and accused man, who is approximately 10 years younger to her, had been living together as husband and wife for about seven months prior to lodging of F.I.R. No evidence to prove that prosecutrix’s consent had been obtained by holding out a false promise of marriage by accused or under any misconception of fact. Not a case, as if prosecutrix is an innocent illiterate person, who had been exploited. She was aware of consequences of her action and even chose to continue the relationship with accused, even after shifting from one place to another. The bench, while relying on the

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425 2016 (1) R.C.R. (Criminal) 454 : 2016 (1) Cri.CC 862
judgments in Mahamad Khan Nathekhan v. State of Gujarat\(^{426}\) and Narender Kumar v. State (NCT of Delhi)\(^{427}\) held that, it was a live-in relationship between the prosecutrix and accused, which resulted in consented sexual relations between the two. Accused not guilty of rape and cheating under s. 376 and 420, I.P.C. Acquittal of accused, proper. There have to be a strong, cogent and compelling reasons to set aside acquittal of accused under s. 378, Cr.P.C. Simply because another view may be possible, cannot be a ground for reversing a judgment of acquittal. Hence, the judgment of the High Court of Punjab and Haryana, acquitting the respondent from the charges of s. 376 and 420, I.P.C., is upheld.’’

Deprecating the hue and cry over acquittals in rape cases, a Delhi court had said that judiciary could not be swayed by emotions or media reporting and had to limit itself to the ambit of law, testimonies of witnesses in deciding such cases.\(^{428}\) Additional Sessions Judge Nivedita Anil Sharma said, “It would not be out of place to mention here that today there is a public outrage and a hue and cry is being raised everywhere that Courts are not convicting the rape accused. However, no man, accused of rape, can be convicted if the witnesses do not support the prosecution case or give quality evidence, as in the present case, where the prosecutrix is hostile. It should not be ignored that the Court has to confine itself to the ambit of law and the contents of the file as well as the testimonies of the witnesses and is not to be swayed by emotions or reporting in the media”.

The court had made the remarks on 15\(^{th}\) June, 2014, while acquitting two Delhi residents Pawan Kumar Tyagi and Kailash Chand of the charges of rape, abduction and criminal intimidation, after the alleged victim turned hostile. Tyagi and Chand were arrested by the police in March, 2013 on the basis of a complaint, lodged by the girl, in which she had alleged that Tyagi had repetedly raped her on the pretext of marriage,

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\(^{427}\) 2012 (3) R.C.R. (Criminal) 66 : 2012 (3) Recent Apex Judgments (R.A.J.) 138 : 2012 (7) SCC 171

\(^{428}\) www.dnaindia.com, Last visited on June 16, 2014
while Chand had outraged her modesty at Mumbai in 2013. However, during the trial, the girl retracted from her earlier statement given before the police and told the court that she had come in contact with one of the accused through social networking site and had developed physical relationship with him on her own consent. She also told the judge that she had lodged the case at the instance of her well wishers.

The court had said that, “it was clear that the evidence of the prosecution was neither reliable nor believable and was not trustworthy and the prosecution had failed to establish outraging the modesty, abduction, rape and threat. The evidence of the prosecutrix made it highly improbable that such an incident ever took place. During her cross-examination in the court, the alleged victim had said that both the accused had not committed any wrongdoing with her. The police had slapped charges of rape and kidnapping on the pretext of marriage against Tyagi, while Chand was booked for outraging the modesty of woman and criminal intimidation. Both the accused had pleaded not guilty during the trial.” The court, while acquitting the duo, had said that, “The alleged victim, had not deposed an iota of evidence of her being raped at all. She had not even mentioned the word rape, threat, or outraging of modesty against both the accused persons in her evidence nor had deposed anything incriminating against both the accused persons. There was no material on record to suggest that accused Kailash Chand outraged the modesty of the prosecutrix and that the prosecutrix was ever abducted by the accused Pawan Kumar Tyagi, raped by him on false pretext of marriage and threatened by him.”

6.4.3. Relief provided by the courts to the accused of rape

The court at Bhopal (Madhya Pradesh) acquitted the accused Chairman of Maharshi Mahesh Yogi Institution, celebate Girish Verma, from the very famous case of sexual exploitation.429 He was implicated for sexual exploitation by one lady employee, Renu Rani, of his own institution. On 22nd Sep., 2015, Sayida Bano Rehman, Additional

District Judge, Bhopal, pronounced the judgment in the 18 months old case. According to the hon’ble judge, the evidences produced by the plaintiff were not sufficient for proving the offence of sexual exploitation. So, the accused was acquitted in the lack of sufficient evidences. From the side of the accused senior advocate, Vijay Chaudhary, argued that there was no eye witness except the lady, her husband and her father-in-law. The lady first complained to the State Women Commission on 19th May, 2012, in which she did not mention about any exploitation.

The lady alleged that the accused sexually exploited her at hotels and other places for 14 years. He was fond of women. He raped her first time in the year 1998. This sequence was made up to 2013. She also alleged in her complaint that the accused forced her to bring the girls, studying in the institution, before him. He blackmailed her through obscene films and pictures.

In another case, Goa University's Ph. D. student, Kashinath Dhumaskar, who was arrested in an alleged rape case at Panji in June 2014, was released on conditional bail by the additional sessions judge, North Goa, Vijaya D. Pol, on July 12, 2014. The accused was arrested on June 6, 2014, following a complaint by the victim's brother that his sister was raped by the accused on May 25, 2014 in a hotel room. Advocate Menino Teles, who appeared on behalf of the accused, had argued that it was a false complaint of rape and that they had been seeing each other for a long time. Even after May 25, 2014, they went out together till her brother, on seeing her mobile, lodged a complaint. While granting bail, the judge said, "No doubt the alleged offence is heinous in nature, but the conduct of the victim girl herself and the stage of investigation do not warrant further detention of the accused in custody". The judge observed that the very statement of the victim showed that she willingly went along with the accused and even after the alleged rape, he "kept meeting the victim as usual".

A woman, who made accused three men of gang raping her, was arrested and sent to jail on 12th June, 2014 for allegedly giving false and fabricated information to police in

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The woman earlier alleged that she was abducted in a car and gang raped by three men at Muzaffarnagar (Uttar Pradesh) on 09\textsuperscript{th} June, 2014. Police later registered a case in it and started the investigation, during which the case was found to be false and fabricated by the woman and her two relatives. Police registered a case against the woman and her two relatives under various sections of \textit{IPC}, including alleged criminal conspiracy to indulge in extortion.

6.5. Judicial observations relating to the cases of maintenance

6.5.1. Court not awarded maintenance

One of the court at Delhi denied on 07\textsuperscript{th} November, 2013 to order for maintenance in favour of a lady, who was graduated from Delhi University, and said, “When the wife is much educated than her husband, then what is the need of her to depend on her husband? She can maintain herself after doing some job.”\textsuperscript{432} Additional Session Judge, Sujata Kohli while dismissing the application for maintenance, said that the lady was graduated from Delhi University and had also diploma in Library Science. When her husband was studying in higher secondary, then she also worked as Lab Technician. In that situation, the lady was failed to tell the court that why she was not searching another job with that degree. It was also not that she had searched for the job and she did not get it. There was no one to stop her from doing a job. She was free to do a job. She was much educated than her husband, and herself not searching another job. In that situation, she was not entitled to the maintenance from her husband. The court also said that the law does not expect that some people continue to fight for implementing the provisions of law for their own profit.

\textsuperscript{431} www.pateleng.com, Last visited on June 14, 2014.

\textsuperscript{432} www.dainikhindustan.com, Last visited on Nov 08, 2013.
The lady and her husband had filed a petition for divorce. In between, the lady applied another application for demanding Rs. 25,000/- as maintenance. She took the plea in the court that her husband was doing a private job and earning Rs. 15,000/- and in addition to that, he was training skates and earning Rs. 45,000/- from that. Her husband replied to her plea that he was not coach of skating. The court said, “In this case, both the parties are hiding their earnings from the court. Often, it is seen that in the cases for maintenance, wife shows her husband’s salary in exaggerated manner and the husband tries his best to show his salary the least. But, it is not done upto such extent, as done in this case”.

It was felt by the family court that a woman, who is well-qualified, cannot claim any maintenance from her husband. While dismissing the application of a dietician, in which she was claiming Rs. 2 lakhs per month as maintenance. While dismissing such application, the family court at Mumbai on 08th March, 2015 said, “The wife, who is well-qualified and claiming maintenance by sitting idle, is not entitled to get maintenance. The wife is not entitled to advantage of her own wrong, she cannot harass the husband on the count of maintenance though she is capable to earn.” The lady filed the petition in 2013, in which she made complaint that since the marriage, her husband and in-laws had not behaved well with her and physically and mentally exploited her for being fewer dowry. According to her complaint, her husband and in-laws wanted Rs. 50 lakhs, gold ornaments and a luxury car at the time of marriage. On non-fulfillment of the demands by her parents, they made her to bind to go to her parental house and live at a separate place since April 2011.

Further, she said that she was without any source of income and was totally dependent on her parents. Opposite to it, her husband was a businessman and her in-laws had their business in Dubai. They were earning in total Rs. 15 lakhs per month. The husband had the contention that the said lady was not his legally wedded wife, so she could not get the maintenance from him. He had given talaq to the said lady on 07th Sep., 2014. The lady is well educated and had withdrawing the monthly handsome salary of

more than Rs 50,000. The court rejected the view of the husband and said that the lady had the right to take maintenance from her husband until her remarriage. But, the court took the admission of the lady strictly and said that as the lady had herself admitted that she had done her graduation and masters in food and nutrition science and also done job in top companies, so she was not entitled to get the maintenance from her husband. The reasons behind such decision was that even she was not working at the time of the proceeding of the case, but the admission of the lady showed that she was well educated and fully capable of doing job.

According to the Supreme Court Bench, wife employed and earning a salary is not entitled to interim maintenance under section 24, Hindu Marriage Act, 1955, even though husband is earning four times more than the wife. Husband does not even attend the Supreme Court hearing, but still wife was denied interim maintenance.434

In Anu Kaul v. Rajeev Kaul435 the fact was that, “an appeal was filed by the respondent (husband) before the High Court of Punjab and Haryana, being aggrieved by the judgment and decree passed by Additional District Judge (Ad-hoc), Fast Track Court No. 3, Faridabad on June 04, 2005, the appellant (wife) had filed an application to the Supreme Court under section 24 of Hindu Marriage Act, 1955, for the grant of interim maintenance of Rs. 10,000/- and the litigation expense of Rs. 22,000/-. The application was partly allowed by the Court by its order on August 28, 2006, by granting an amount of Rs.10,000/- towards litigation expense and a sum of Rs. 2,000/- for the maintenance of the minor child, living with her. The Review Petition was also dismissed by the Court on March 21, 2007, leaving it open to the appellant to claim interim maintenance before an appropriate forum in the capacity as a Guardian of the child. The assertion of the appellant in the application filed under Section 24 of Hindu Marriage Act, 1955 that the respondent was working as a Senior Head of Mukund Steel Ltd., had its head office at Mumbai and drawing a salary of Rs. 40,000/- per month and was entitled to claim perks

for the education of his children, was not denied by the respondent by filing his counter affidavit or reply statement. In the application filed, the appellant admitted that she was employed and drawing a salary of Rs. 9,000/- per month. However, she asserted that she had to pay an amount of Rs. 3,000/- by way of rent to the tenanted premises, which she was presently occupying in view of the lis between the parties. She had also stated that Kumari Karmisatha Kaul was now grown up and she was studying in Senior School and due to insufficient funds, her education was being hampered.”

The Bench, comprising of the Supreme Court, consisting of Justice Tarun Chatterjee and Justice H. L. Dattu, held on March 23, 2009, “A sermon on moral responsibility and ethics, in our opinion for disposing of this appeal may not be necessary, since the respondent has not disputed the assertion of the appellant. However, since the appellant was employed and was drawing a salary of Rs. 9,000/- per month, we do not intend to enhance the interim maintenance awarded to her by the High Court during the pendency of the appeal filed by the husband. However, taking into consideration the child being the daughter of highly placed officer, the exorbitant fee structure in good schools and the cost of living, we deem it proper to direct the respondent to pay a sum of Rs. 5,000/- per month to the applicant commencing from 1st of April, 2009 for the maintenance of the minor child during the pendency of the appeals before the High Court.”

Madras High Court made an observation that if a lady gets divorce on the basis of adultery, she cannot claim maintenance from her said husband.436 The court admitted a criminal revision case, which was filed by a government employee. The applicant was not satisfied from the lower court’s decision to pay the maintenance amount of Rs. 1000 per month to his wife, to whom he had given divorce on the basis of adultery in 2011. "Just as a man has an obligation to maintain his divorced wife, the woman also has an obligation not to have illicit relationship with another man," Justice Nagamuthu said. "The divorcee would suffer disqualification from claiming maintenance if she had

436 www.htmedia.in, Last visited on Aug 18, 2015.
relationship with another man. She was entitled to get maintenance from the person with whom she had relationship and not from the ex-husband," he said.

In addition to this, 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

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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.”

6.5.2. No interference into the order for maintenance by the courts in rape cases

In **Kiran Arora v. Manoj Kumar Arora**, Justice Anita Chaudhry, of the High Court of Punjab and Haryana, given good reasons, while deciding the petition, made by the wife to raise the amount of interim maintenance, stated that, “The wife has not disclosed that she was working or had income of her own. It has not been explained how with no income she is travelling to various parts of the country. It has not been explained as to whether the visits were for pleasure or for official work. Opposite to this, the husband has maintained a driver and a car for the children. He has pleaded that he is paying over Rs.45,000/- per month as installments. Considering the material which has been placed on record, I am of the view that the amount awarded to the petitioner wife as interim maintenance was appropriate. The petitioner will have to lead evidence and furnish explanation with respect to her visits at the trial. No ground for interference is made out. The petition is dismissed.”

In what comes as a relief to a man, who had defaulted on payment of maintenance to his estranged wife, the Bombay High Court quashed a non-bailable warrant (NBW) issued against him by a magistrate. The HC said such warrants were unsustainable in law without resorting to other remedies to recover the amount. Justice M. L. Tahaliyani recently held that the magistrate was to first issue a warrant to recover the amount by attaching any movable property of the man and selling it. Had the money been recovered that way, the question of putting the defaulter in prison did not arise, the court said.

A 36-year old businessman from Gondia had moved the Nagpur bench, comprising of the HC to challenge the NBW, under which he could be arrested. Saying the wife could not be left “high and dry”, the magistrate issued the NBW for non

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438 CRR (F) No. 118 of 2015 (O&M), Decided on Jan. 20, 2016.
compliance of an interim maintenance order in a plea by the wife under Protection of Women from Domestic Violence Act. But, the HC said the law made it clear that the magistrate had to “follow the procedure laid down in the Code of Criminal Procedure for recovery of maintenance, final or interim. The Cr.P.C. provisions are analogous to the reliefs available under Section 20 of the D. V. Act and empowers the magistrate to sentence a defaulter up to a month or until payment is made”. Given that the Cr.P.C. lays down how maintenance has to be recovered from recalcitrant husbands, the HC said the magistrate “could not have issued an NBW directly”.

### 6.5.3. Order for the maintenance, in favour of the former cricketer husband

While giving a landmark judgment in a case for divorce, a court in Gujarat ordered a lady to give the maintenance to her husband. The husband, who was a former cricketer, made allegation of physical and mental harassment against her. Justice, D. T. Soni, Family Court, Gandhinagar (Gujarat) ordered Rajvinder Kaur that she will have to pay Rs. 10,000 to her husband, former cricketer Dalveer Singh alias Bunty Gill, for maintaining himself. Dalveer had played with Sachin Tendulkar in Under-17 Team of cricket. In 2002, cricket career of Dalveer was finished due to an accident. After that accident, he became handicapped. Tendulkar had provided economic help to Dalveer for his surgery. It was said in the application, filed in the court, that he was married to Rajvinder in 2006. But, she detained him in a house in Sector 22 and harassed him physically and mentally. Even, she didn’t allow him to walk with the help of his baisakhi. Further, she did not allow him to take medicine and kept him hungry. Before pronouncing the judgment, the court heard the evidences of neighbours of the husband and wife. The neighbours and a police officer informed the court about the harassment by Rajvinder over Dalveer.

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439 [www.epaper.amarujala.com](http://www.epaper.amarujala.com), Last visited on July 20, 2014
6.6. Judicial observations relating to the cases of fake kidnapping or abduction of female

6.6.1. No enticement or causing the minor

In one more case, in *Akbar @ Faruk v. Staet of Rajasthan & Anr.*, Justice Sandeep Mehta while deciding the revision petition stated that, “The sole witness examined by the prosecution so as to bring home the charges against the petitioner was the allegedly kidnapped girl Mst. Shahiba. Neither in her statement recorded under Section 161 Cr.P.C. nor in her statement recorded by the Magistrate under Section 164 Cr.P.C., did she state that she had been enticed from the lawful guardianship of her father by the petitioner or that she was kidnapped and taken away by him. She clearly stated that she wanted to visit Chittorgarh and accompanied the accused of her own free will. Thus, no element of enticing and causing the minor to go to any place is disclosed from the admitted case set up by the prosecution. In this background, there was no justification for the trial court to have directed framing of charge against the petitioner for the offence under Section 363 and 366 of the IPC. As a consequence of the above discussion, the revision petition deserves to be and is hereby allowed. The order dated 10.06.2014 passed by the learned Additional Sessions Judge No.4, Jodhpur Metropolitan and also subsequent proceedings sought to be taken therein against the petitioner are hereby quashed. Record be returned to the trial court.”

In *Ajay Patel @ Sarvan v. The State of U.P.*, Justice Ranjana Pandya while deciding the appeal, against the judgment convicting the accused under s. 363, 366-A, 376 (2), I.P.C., observed the principle laid down in *Mohd. Ali @ Guddu v. State of U.P.* that, “Be it clearly stated here delay in lodging FIR in cases under Section 376 IPC would depend upon facts of each case and this Court has given immense allowance

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441 Criminal Appeal No. 4846 of 2014, Decided on May 02, 2016.

442 2015 (3) SCC (Criminal) 82
to such delay, regard being had to the trauma suffered by the prosecutrix and various other factors, but a significant one, in the present case, it has to be appreciated from a different perspective. The prosecutrix was missing from home. In such a situation, it was a normal expectation that either the mother or the brother would have lodged a missing report at the police station. The same was not done. This action of PW2 really throws a great challenge to common sense. No explanation has been offered for such delay. The learned trial Judge has adverted to this facet on an unacceptable backdrop by referring to the principle that prosecutrix suffered from trauma and the constraint of the social stigma. The prosecutrix at that time was nowhere on the scene. It is the mother who was required to inform the police about missing of her grown up daughter. In the absence of any explanation, it gives rise to a sense of doubt.”

Justice Pandya further stated that, “In the present appeal, the prosecutrix lady was taken on a two wheeler, her mouth was opened. Nobody was pressing it. There is no reason why the victim did not raise alarm when her mouth was opened and the accused were unarmed. In cross-examination, this witness has further stated that she had stated to the Magistrate that on the next day of occurrence at 11:00 p.m., she was left near her house. She has stated that on the next day, the accused left her at her house. If this would have been actual position, there was no reason why the written report could not have been lodged the next day when the victim had returned home and had narrated the whole incident to her family members. Thus, what has been stated and discussed above, I conclude that the prosecution case is bundle of false allegations and improbable facts, due to which the learned trial court misled itself and has incorrectly convicted the accused, such conviction cannot be sustained in the eyes of law, as such the accused is entitled to be acquitted and the appeal is liable to be allowed. Hence, the impugned judgement and order of conviction and sentence dated 23.09.2014 passed by the learned Additional Sessions Judge, Court No. 2, Varanasi in Sessions Trial No. 21 of 2012 (State vs Ajay Patel alias Sarvan) arising out of Case Crime No. 210 of 2011, under sections 363, 366A, 376 IPC, Police Station Rohaniya, District Varanasi, is hereby set aside.”

6.6.2. No evidence to prove the guilt of accused
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.”

6.7. Women penalized for harassment to men within India

6.7.1. F.I.R. and Non-bailable arrest warrant against woman

The Judicial Magistrate – Class I court in Mangalore had issued non-bailable arrest warrant against a woman doctor, hailing from Davangere, and her father for submitting a police complaint of alleged dowry charges against her husband and in-laws. Dr. Ranjeetha Shenoy of Davanagere was married to Dr. Gurukanth Rao, Assistant Professor of Medicine at K. M. C., Manipal. After the marriage, Dr. Ranjeetha resided with her husband only for 15 days and started insisting that he should come and reside in her parental house in Davanagere. When he refused, she abandoned him demanding divorce and Rs. 1 crore threatening to lodge false dowry case, if money was not paid. On coming to know that she was in Mangalore, her husband Dr. Rao met her and requested her to join him back, but she demanded divorce and compensation. When Dr. Rao did not agree, she went to Mangalore South Police Station and lodged a false criminal case alleging that Rao and her father-in-law, Dr. N. R. Rao, demanded dowry, physically and mentally tortured her and threw her out of the house. The police summoned Dr. Rao and his parents and held a detailed enquiry by questioning the relatives and neighbours. It was

443 2016 (3) R.C.R. (Criminal) 622: 2016 (3) Cri.CC 802
revealed that there was no dowry at all in the marriage and all the marriage expenses were borne by the husband. Allegations of cruelty, beating etc. were found to be false. Police concluded that it was a false complaint and hence, closed the case.

Dr. N. R. Rao, senior physician of Manipal and his family was deeply hurt on account of that false complaint and approached the J. M. F. C. Court, praying the court to take action against his daughter-in-law and her parents for filing false complaint of dowry and harassment. After enquiry, J. M. F. C. Court found that there were prima facie materials showing that Dr. Ranjeetha and her parents lodged a false complaint of dowry, harassment etc. to the police and abused the anti-dowry laws and thereby committed perjury and defamation. The J. M. F. C. Court upheld the arguments of complainant's advocate and ordered to register criminal case (as per C.C.No.1214/14) against the trio. The charges carry maximum of two years prison sentence. In the meanwhile, Dr. Ranjeetha had left Mangalore and she was reportedly absconding and failed to appear to the Court in spite of summons. Hence, J. M. F. C. Court had issued non-bailable warrant for the arrest of the three persons and directed Mangalore Barke Police to arrest and produce them before the Court.

Filing false case of dowry demand may not be healthy for women. One of the courts at Delhi threw a penalty of Rs. 1 lakh over a woman on 21st June, 2015 for filing a false case of demanding dowry against her in-laws. The court found that the woman was accused of misusing the laws and extorting the money from her in-laws for her own benefit. Hon’ble Judge Shivani Chauhan, Metropolitan Magistrate gave the abovesaid judgment. The court also mentioned in the judgment that generally women are the victims of domestic violence in most of the cases. The Domestic Violence Act is for the protection of women from the violence within the sphere of the home, not for the any other wrong use.

The woman, penalized by the court, had alleged the charges in a much exaggerated manner against her husband and father-in-law. She had also hidden the material facts relating to her husband, father-in-law and mother-in-law in her complaint.

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444 [www.aajtak24.in](http://www.aajtak24.in), Last visited on June 22, 2015
The woman in her complaint falsely alleged that just after the marriage, she had feud with her husband. She also made allegations on her husband for exploiting her physically and mentally and on her in-laws for watching that entire activity, remaining silent. Further, she had demanded money from her husband for her own personal benefit, which was the misuse of the laws. The court ordered the woman to deposit the amount of penalty Rs. 1 lakh in the account of Blind Relief Fund. According to the court, one benefit of such type of judgments would be that the persons, who made false allegations, could not take the benefit of such fake cases.

A court at Delhi had directed the Delhi Police to register an FIR against a woman on a man’s complaint, alleging that she had filed a false case of stalking against him in 2013 to extort money. Chief Metropolitan Magistrate (CMM), Sonu Agnihotri passed the order on the complaint of Delhi-based pharmacist, Naveen Kumar, who had approached the court alleging that on the night of March 30, 2013, the woman had taken away his gold chain and Rs. 5000 cash after threatening him. He had alleged that the woman later on filed a false case against him to extort more money. SHO, Police Station Kalyan Puri, was directed to file an FIR on the basis of contents of complaint addressed to DCP East under relevant provisions of law. The court was informed by the police in its status report that the woman had filed 10 cases against various persons and some FIR had also been registered against her. It also noted that the majority of the cases filed by the woman were for the offences of rape and molestation. The court also directed the police to properly probe the case, filed by the woman against Kumar, as there were several points which required proper investigation.

Kumar, in his complaint filed through advocate R.K. Chaudhary, told the court that on the night of the incident, he had gone to drop two of his colleagues by his car and while returning from Kondli Mor, the woman suddenly came in front of his vehicle and started crying. She then threatened to call police and took his gold chain and Rs. 5000. Kumar, a resident of Minto Road in Delhi said adding that the woman was known to his colleagues. He alleged that the whole thing was pre-planned, as a policeman was also

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present there and he was taken to the police station by the cop and the woman filed a false complaint of stalking in order to extort more money from him.

The Adgaon (Maharashtra) police arrested a 30-year-old woman for killing her husband.\textsuperscript{446} The accused, identified as Mangala Shardul, was produced before a city court, which remanded her in five-day police custody. Earlier, the Adgaon police had registered a case of accidental death. Nilesh Ramesh Khairnar (30), brother of the accused, had told the police that his brother-in-law and the victim, Sanjay Shardul (40), of Nilgiri Baug Slum on Aurangabad Road, had committed suicide by slitting his throat under the influence of alcohol. Khairnar had said that the couple had an argument, over which Sanjay slit his throat and severe bleeding led to his death. However, Sanjay's post mortem report stated that he was also strangulated at the time of his death. During the course of investigation, Mangala confessed to the crime. Investigating officer Assistant Sub-Inspector, J. A. Naik, said that the accused lady told to the police that her husband used to constantly beat her up and their children under the influence of alcohol, which forced her to kill him.

6.7.2. Daughter-in-law has no right to continue to reside in the suit property or to disturb the possession

In \textit{Kavita Chaudhri v. Eveneet Singh and others},\textsuperscript{447} Delhi High Court ordered that, “The woman, who was estranged from her husband, was restrained from taking possession of her mother-in-law’s house in a posh locality in South Extension, New Delhi. Accepting the plea of 54-year-old widow, Kavita Chaudhri, Justice Jayanth Nath passed a decree in her favour, as she claimed that the house in question was gifted her by her father. The court had restrained the daughter-in-law from taking possession of the house, by saying that the defendant no. 1 (daughter-in-law) had no right to continue to reside in the suit property or to disturb the possession of the plaintiff’s (Chaudhri)

\textsuperscript{446} www.publication.samachar.com, Last visited on May 07, 2014.

\textsuperscript{447} CS (OS) 505/2010, Order pronounced on Sep 19, 2013
property in South Extension, New Delhi. There was no merit in the contentions of defendant no. 1. Accordingly, a decree was passed in favour of Chaudhri and against defendant No 1, restraining the defendant No 1, her agents, representatives etc. from entering into premises D-32, South Extension Part-II, New Delhi.”

Further, the facts of the suit was that, “The woman had also argued before the court that her daughter-in-law started claiming right over the property due to matrimonial dispute with her son few months after their marriage in April, 2004. The daughter-in-law had leveled various allegations against her only son and also filed a case before the high court under the Domestic Violence Act against him and family members, according to the widow’s plea. The court rejected the contentions of daughter-in-law and said that they had examined the contentions of defendant no. 1, regarding her alleged rights to stay in the suit property under section 2(s) and 17 of the Domestic Violence Act, 2005; and in their view, the said contentions were wholly without any merits. So, the defendant couldn’t claim any rights in the said suit property.”

In Hamina Kang v. District Magistrate (U.T.), Chandigarh and others,^{448} Justice Harinder Singh Sidhu, of the High Court of Punjab and Haryana, while deciding the appeal, considered that, “In Balbir Kaur v. Presiding Officer-cum-SDM,^{449} the High Court of Punjab and Haryana held that the exercise of the right under Section 22 regarding protection of right of life or property of a Senior citizen has been conferred irrespective of the fact whether the person who threatens the life or property is related to the senior citizen or not. An application under Sections 21 and 22 against the daughter-in-law was held to be maintainable. In addition to this, in Gurpreet Singh v. State of Punjab and others,^{450} the High Court of Punjab and Haryana held that a son and his family is a mere licensee living in the property owned by his father on the basis of concession. The license stands terminated, the moment the licensor conveys a notice of termination of the license. Once a senior citizen makes a complaint to the District

\^{448} CWP No. 18009 of 2015 (O&M), Decided on Jan. 25, 2016
\^{449} CWP No. 15477 of 2014, Decided on June 29, 2015.
\^{450} CWP No. 25407 of 2015, Decided on Dec. 01, 2015
Magistrate against his son to vacate the premises, on which he is a licensee, such summary procedure will endure to the benefit of the senior citizen.” The court held against the daughter-in-law in the present appeal that, “The petitioner daughter-in-law is directed to vacate the house of her in-laws, i.e. House No. 112, Sector 9-B, Chandigarh within one month from today.”

Further in Varinder Kaur v. Jitender Kumar and another, Justice Raj Mohan Singh of Punjab and Haryana High Court, commented that, “The House No.737, Sector 12 Panchkula in question was proved to be a self-acquired property. The appellant (daughter-in-law) sought to adduce additional evidence by tendering documents in order to show that an amount of Rs. 10 lacs, which was granted towards insurance claim in Australia was transferred in the account of defendant No.1 Arundeep Verma and the same was utilised for renovation of the house and, therefore, the house can be treated to be ancestral property of defendant No.1. The plea was declined by the Additional District Judge, Panchkula vide order dated 16.07.2016 on the premise that the parties had already led evidence. The defendant No.2 remained unsuccessful before the trial Court, wherein in para No.32 of the judgment it was held that defendant No.2 did not lead any evidence to prove the house to be a joint Hindu family property. The additional evidence was not intended to prove the property to be ancestral property on the strength of such evidence which was sought to be adduced before the lower Appellate Court. In view of above and in the light of aforementioned judicial pronouncements, it can be safely culled out that the appellant has no right to live in the self-acquired property of the plaintiff/respondent No.1 (father-in-law). The lower Appellate Court has rightly passed the impugned judgment and decree against the appellant. This appeal is accordingly dismissed.”

6.8. Women, penalized all around the world for harassing men

6.8.1. Order for imprisonment of women for harassing men

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451 2016 (4) R.C.R. (Criminal) 861 : 2016 (4) R.C.R. (Civil) 993
London Court gave imprisonment for 10 years to a lady aged 25 years, who was basically from India and working in London as care home worker.\(^{452}\) Christina Sethi was punished for committing sexual assault on old age patients, one of whom was a woman aged 101 years. During January, 2014 to May, 2015 at care home at Devon (South-west Bengal), she assaulted over one man and two women. She made the videos of those assaults on mobile and transferred them to Plymouth Crown, her boyfriend. She knowingly assaulted over the patient of dementia, and one of them was died also during that assault. Judge Richard Stead made the comment, while giving punishment to her, that, “you had committed horrific abuse of three vulnerable and elderly victims, who were in a care home under your care. You humiliated three elderly people, who trusted you”. A man informed the police about the assaults, who himself got to know after buying computer from Sethi and finding the videos of the sexual assaults in Recycle Bin of that computer. A female patient was shown to be seen in the video asking to Sethi helplessly that what was being done by Sethi to her.

In an another case, a San Antonio woman was sentenced for two years in prison for tearing her 6-year-old son's genitals during a rage and then trying to repair the wound using glue.\(^{453}\) The sentence imposed for 34-year-old Jennifer Vargas, included five years of supervised release. She had pleaded guilty earlier to an assault charge. An FBI complaint showed Vargas was arrested on 27\(^{th}\) September, 2013 at the family's home at Joint Base San Antonio-Fort Sam Houston. It was not clear, why Vargas became so angry that she grabbed the boy's genitals. The father came home later to find his son crying in his room, discovered the wound and took him to a military hospital. The child required surgery. An emotional Vargas expressed regret in court for her actions.

In addition to this, “the British teenage girl, who attacked an 80-year-old Sikh pensioner in a city centre in Britain's Coventry, was jailed for two years by the Warwick

\(^{452}\) Times of India, Aug 15, 2015, Delhi

Coral Millerchip, 20 years old, attacked frail pensioner Joginder Singh at the city centre in August 2013, an act which was captured on camera and caused an outrage among the Sikh community in the country. Millerchip punched Joginder Singh to the ground with his Sikh turban falling off in the brutal assault. The judge ruled that the girl had "humiliated" Singh and sentenced her to a two-year jail term and 20 more months for an unconnected burglary. Mr. Singh suffered a scratched nose in the attack and was later discharged, after being taken to the hospital.”

A resident of Coventry in Britain's West Midlands, he was a dementia patient and died three months, after the attack from an unrelated health complaint. Millerchip pleaded guilty to a charge of assault occasioning actual bodily harm. Describing it to be "a serious type of offence", the judge said: "This man was very vulnerable due to his age and due to a medical condition. He was an elderly gentleman - you could have just walked away from him. Instead of that you assaulted him and humiliated him. He was no threat to her and nothing could justify such an attack.” Mr. Singh was never the same after the brutal assault and he was "edgy" and "nervous" in his own home. Millerchip was also jailed for 20 months for a burglary committed earlier with brother Mason Millerchip and Jordan Arrol in a Coventry house, where they stole a laptop and bank cards.

6.8.2. Woman paid $2.6 million to Football Star

Wanetta Gibson, who falsely made accused the football star Brian Banks of raping her, was being forced to pay big time. A judge had ordered that the woman pay $2.6 million to Banks for ruining his life with false allegations. The lies caused him to lose numerous scholarship offers to college and also led to a prison sentence of over five years. She told lies to authorities, when she accused Banks of assaulting her, when the two attended Long Beach Poly High, where Banks was both a student and football star. After the conviction, the girl sued the school district and received $1.5 million. The

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conviction was overturned, when Gibson was secretly recorded admitting that she made the whole thing up. Years later, Gibson confessed and Banks was released. The woman is being forced to repay a $750,000 settlement to the school, plus attorneys fees, interest and another $1 million in punitive damages.

At both national and international level, various courts have admitted that men are being harassed by women for gaining their personal benefits through misusing the laws, which are provided to the latter for the protection of their rights. The courts do not felt ashamed for awarding punishment to women for the commission of wrong by them. It is a good start for the protection of interests of men.