

## **REMEDIES AGAINST FALSE DOWRY CLAIMS**

With the growing crime rate against women in this country and laws in place, there is ever growing concern to protect men from being harassed, against the laws meant to protect women. Innocent men, families, their reputation, livelihood all have been destroyed by women who tend to seek revenge and extort money in name of laws against dowry harassment.

Since Independence, several women protection laws were made and amended from a perspective to uplift and protect rights of Indian women but during last few years, several activists have been raising their voice against such biased laws. These laws don't protect or acknowledge abuse done to men when compared to women, showing clear disparity in the system. One such law that gets abused most is Section 498A of Indian Penal Code, 1860 which protects the interests of women against cruelty and violence by her husband or his relatives.

“Section 498A – Husband or relative of husband of women subject to cruelty...shall be subject to imprisonment for a term of three years and shall also be liable to fine.” This Section is used by a woman in India to file a complaint against her husband for mental, physical, and psychological or any other agony or harassment.

In addition a consequential amendment was also made in the Indian Evidence Act<sup>1</sup>, which made it such that rather than the accused being proved guilty, the guilt was assumed and the accused had to prove the innocence.. Section 498A prescribes punishment of three years imprisonment and also fine on husband and relatives of husband who inflict cruelty against women.

Nowadays however, women use these weapons called Section 498A and Dowry Act to file a false complaint so as to attack their husband. In the past few years, the cases of misuse of Section 498A and false 498A cases have increased! Women have started misusing this law as a tool for their vengeance or to get out of a wedlock. Many cases have come up when it was found by the courts that a woman filed a false 498A case against her husband as a way to harass him and malign his image.

Generally, the husband, his parents, and relatives are immediately arrested without sufficient investigation and put behind bars on non-bailable terms. Even if the complaint is false, the accused is presumed to be guilty until he or she proves innocence in the court.

Frivolous false 498A cases have put innocent people behind the bars as the law is highly in favour of women in India. It is found that women from well-educated families are in the majority to file a false case under Sec 498A against their husbands.

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<sup>1</sup> Section 113B, Indian Evidence Act, 1872

The judiciary is well aware of the misuse of Section 498A. Supreme Court called it legal terrorism. But even the judiciary is helpless due to tremendous pressures from feminist groups. There is a bill pending in Rajya Sabha for amendment to Section 498A.

With regards to tackling a false complaint of dowry harassment, there are two ways to go about it. One is to protect yourself and your family and the other is to go on the offence and file a counter case.

To protect yourself, you must start collecting as many evidence as possible to have substantial material that helps in proving a false 498A case. This evidence includes: (a) Any conversation between you or your family member with your wife or her relatives like any SMS, emails, letters, call recordings, etc. (b) Any evidence that proves that your wife moved willingly out of your house. (c) Any evidence that shows no demands for dowry were made before or after the wedding.

There are many instances where the whole family is put in jail solely based on one false complaint. Section 498A has a very broad jurisdiction under which the women can lodge a case against anyone in the family. Even the mother and the father of the husband are not exempt from it. In such a situation, once the FIR is lodged, the concerned party can apply for anticipatory bail or notice bail so as to ensure that the innocent family members are not going behind bars without any just cause.

You can also get the false 498A FIR quashed by High Court under Section 482 of CrPC. Courts are generally reluctant to quash an FIR or interfere in the process of police, but if you have sufficient proof, the court has the power to quash the false 498A FIR filed by your wife.

You can also file an FIR against your wife for blackmailing or filing a false 498A case against you. Police in India usually do not favour such FIR, but if you make your case fool proof, the police cannot deny you to file an FIR against your wife. If the police refuse to register your FIR, you can file a written complaint against such police officer, with the Superintendent of that police station.

If the wife has left the house after threatening to file a case, an RCR (Restitution of Conjugal Rights) can be filed mentioning the conditions that she should agree on before she starts cohabiting again.

Writing letters to the media, human rights organizations, etc, telling them about the misuse of Section 498A will enable the accused to save face in the society. Using social media platform for reaching the mass will make it possible to get a better stand in the trial by media. This will not give you legal relief but bring the attention of the society toward the misuses of the law.

Despite lack of legal protection against false 498A case, to make your case stronger and to expect an earlier settlement, you can file counter cases against your wife. Below is a list of counter cases you can file to strong your case.

If you suspect that false evidence is being framed or presented against you then under Section 191 IPC, you can file a case alleging that you are being framed wrongfully. Man being a social animal, reputation is everything for him. So if she threatens you to defame or falsely drag you and your family to court, you can file a counter case of defamation under Section 500 of IPC.

In situation where your wife threatens you to do harm to you or your family or anything related to you, gather the evidence and present it to court under Section 506 of IPC. If you believe that the complaint registered by your wife is false you can file an application under Section 227 of IPC stating that the 498A case filled by your wife is false. If you have enough proofs, or if she does not have enough proof to substantiate the charges, chances are that the judge just dismisses the 498A case as it is a framed one.

In a recent case, *Rajesh Sharma v State of Uttar Pradesh*<sup>2</sup> Supreme Court of India issued new set of directions to prevent the misuse of Section 498A of Indian Penal Code. This involves the constitution of a Family Welfare Committee which will look into complaints of dowry harassment and any arrest based on the complaint should be made only after the committee submits its report.

In the case *Arnesh Kumar Vs. State of Bihar*<sup>3</sup> the Supreme court while observing that there is a rampant misuse of dowry harassment cases, issued strict guidelines to the police and magistrates saying that no automatic arrest must be made based solely on the complaint, but arrest should satisfy all the conditions provided by law under Code of Criminal Procedure<sup>4</sup>.

The increasing false complaints against men are a serious issue as it violates the basic human rights. This problem is not in the realm of the unknown. Everybody knows how women misuse the provisions of the law to fulfill their unlawful demands against their husbands. Moreover, Section 498A is non-compoundable which make it more severe for men. Though the government recently has given some guidelines to amend the existing laws, making same provisions for men and women, the law still needs to go a long way before such equality prevails. That being said, the Indian courts and enforcement authorities have become vigilant in dealing with Section 498A cases due to the increasing number of false 498A cases but these are just baby steps in protecting the rights of men.

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<sup>2</sup> (2017) SCC Online SC 821

<sup>3</sup> (2014) 8 SCC 273

<sup>4</sup> Section 41B, Code of Criminal Procedure 1973