

## WOMEN EMPOWERMENT – MISUSED

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### Abstract

Whereas the government and the judiciary are enormously trying to correct the discriminatory practices prevalent in society. As women are and were subjected to discrimination, repressed, denied legal rights, including ownership, management, access and enjoyment of property, inheritance, marriage, divorce and custody of children, enjoyment of fundamental civil and political rights, participation in and access to law and policy-making, courts and legal remedies and access to certain types of employment and government benefits. New reforms brought to educate and empower women; harsh punishments inflicted to husband and relatives-in-law and people abusing women. Now this is taking u-turn, men are abused and tortured, harassed by filing false complaint, money is extracted under the guise of alimony. Women were harassed for dowry now married man is harassed by his wife to transfer his property in her name during the continuation of marriage in some cases immediately after the marriage ceremony. Author with the help of cases decided by the Supreme Court and various High Courts finds that men are victims of violence- physical, mental, economical- by women. The 'hidden-tiger-ego' of women is pouncing innocent men. It's just a tip of the ice-berg; the whole mountain is yet to crash. It is urgently necessary to protect the victims of domestic violence, irrespective of gender. The perpetrators of any violence must be punished rightfully, but innocent men must be saved from the fury of uncertain, excessive laws. So that we do not head towards an imbalanced society.

**Key words:** *Women empowerment, domestic violence, misuse of laws, gender discrimination, abuse of women.*

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## Introduction

Women were victims of the tantrums of men for ages. History is full of the facts about abuse of women. Not much has changed since then. However under the costume of empowerment few privileged (yes indeed privileged, else there is struggle and exploitation) women could get high education, desired life, exposure to the world as human being, perhaps a better half of man.

It is indeed a fact that violence in the household is a problem with deep gravity. There is immense need of an unbiased law which will protect the real victims, and not pretenders. Gender bias should not have any place in such law, only focus must be on injury caused to victim, irrespective of his or her gender.

Some social reformers tried to uplift the downtrodden women. Reformatations were brought by the British rulers and even the leadership of democratic independent India. The law against Sati<sup>2</sup>, law against child marriage, and many such atrocious acts were brought under control by law as well as women were also secured by including them in political activities, involving them through reservations<sup>3</sup> in Municipalities, Municipal co-operations and village Panchayats were for empowerment of women to lessen her miseries to give her an identity as human<sup>4</sup>.

The authors endeavour through this paper is to focus on the empowerment of women attempted by various agencies like the Parliament, the legislature, the society and the religious institutions. Also a study is to be conducted by analysing the decided cases to see whether these provisions are being misused. The methodology adopted for the purpose of this paper is doctrinal as it will be proper method to check whether the provisions of law are being misused. Hence only few case laws will be studied for the purpose of this paper.

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<sup>2</sup> The Commission of Sati Prevention Act, 1987 was enacted to prevent commission of Sati by anyone and penalizes any person who abets the commission of Sati, either directly or indirectly and glorifies Sati. The DWCD has proposed amendments to this Bill to make it more stringent.

<sup>3</sup> Political representation of women has increased at the local level. The 73rd Constitutional Amendment Act, 1992 (Panchayati Raj), included a provision for statutory minimum reservation of 33% (50% in Maharashtra) seats for women in Panchayat Raj Institutions. This Amendment came into force on 24 April 1993.

<sup>4</sup> Political reservation for women at the central level has however proved more problematic and successive parliamentary sessions have failed to reach a consensus on the Constitutional (85th Amendment) Bill 1999 which would provide 33% reservation for women in the national parliament and state legislatures.

## **Abuse of Women By Men**

Violence can be fatal as well as non fatal. Non fatal violence includes physical, mental abuse and economical abuse also. Violence has deep roots in our Indian society. Many of our old text take privilege in endorsing abuse in domestic relations, hence beating of wife and children is considered as privilege of the husband, father and elder men in the family. These perceptions penetrated in every household irrespective of religious tenant and taking pride in keeping women in control was something as getting a laurel in some competitions in the male dominating society. What kind of women liberation can be expected from the society which considered women as property and object of gratification? To maintain cordial relations amongst the kingdom girls were given and taken as wives of the neighbour king irrespective of her and his age difference. The kingdoms, land, Jagir etc were surrendered under the guise of marriage. Even the so called swayamvara was nothing but exhibition of male power, wit and intelligence to win a wife. Kidnapping of wives to revenge the insults or abduction of daughters to insult the father was very common in ancient India and are we thinking it has changed? Killing a widow by making her sati, marrying a young girl to the Gods and then using her as dasi<sup>5</sup>, practice of demanding dowry is very distractive we are aware that many women have been killed, by the husband or his family members. Thus it was very obvious women organisation, intellectual faculties and reputed persons have demanded the changes in laws. There were changes, amendments of old laws, enactments of new laws in support of women.

## **Laws for Education and Empowerment of Women**

A woman is a weak, venerable and needs protection, so a voice was raised to enact laws to educate, encourage and protect women. Due to this today women have occupied the high positions according to their intelligence and performances.

Women had been facing discrimination though our constitution promises equality. There was and perhaps is violence against women in the house hold, in family relations, in public places, in work place etc. Due to the increasing relative amount of crimes against women, certain laws have been enacted specifically in India to protect them. Constitution of India is the supreme most legislation, followed by plethora of laws such as Indian Penal Code, 1860, to control all kinds of crimes, The Hindu Marriage Act, 1955, The Hindu Adoption and Maintenance Act, 1956, Cr. P.C. also include

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<sup>5</sup> This practice, based on religious belief is often misused and is one of the causes of inducting women into prostitution. These States have enacted separate laws prohibiting dedication of women/girls as Devadasi and penalize such dedications

maintenance of wife<sup>6</sup>, The Protection of Women from Domestic Violence Act, 2005, The Dowry Prohibition Act, 1961, Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, etc. to address the matrimonial violence. Immoral Traffic (Prevention) Act, 1956, The Indecent Representation of Women (Prohibition) Act, 1986, The Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Redressal) Act, 2013, to secure her at her in public and work place. Laws like CPC and Criminal Procedure Code, 1973 are tilted in favour of women so that they are not deprived of seeking justice. There are a few legislations for the protection of women's rights in India. Some sections of the Indian Penal Code, 1860 are dealing with punishments for dowry deaths<sup>7</sup>, assault or criminal force to woman with intent to outrage her modesty<sup>8</sup>, rape<sup>9</sup>, cruelty<sup>10</sup>, abduction<sup>11</sup>, etc., and some provision Code of Criminal Procedure, 1973, the arrest of a woman<sup>12</sup> by female police personnel only, medical examination of rape victims by registered medical practitioner or female doctors<sup>13</sup>.

### **Misuse of Laws: Trend to register false case against men**

The abovementioned laws are obligatory to protect the interests of women unfortunately these laws have been misused frequently by women for their own benefits, or as a part of family conspiracy. This

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<sup>6</sup> Section 125 of the Cr. P C, 1973 provides for giving maintenance to the neglected wife, child etc. The object is to prevent starvation and vagrancy by compelling the person to perform the obligation which he owes in respect of his wife, child, father or mother who is unable to support themselves.

<sup>7</sup> 304B. Dowry death- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

<sup>8</sup> Sec. 354 A-D, Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, but section was enforced to protect women from any kind of sexual harassment, assault or use of criminal force to woman with intent to disrobe, voyeurism and stalking, this law is being persecuted by some women skillfully.

<sup>9</sup> Section 375 of the Indian Penal Code defines rape as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped, or is of unsound mental health and in any case if she is under 18 years of age."

<sup>10</sup> Sec.498-A. Husband or relative of husband of a woman subjecting her to cruelty—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

<sup>11</sup> Sec.362. Abduction-Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

<sup>12</sup> Section 46 (4) of Code of Criminal Procedure, 1973 a woman shall not be arrested after sunset and before sunrise. However this rule is subject to exceptions, as that provision starts with the phrase "save in exceptional circumstances", every law is enacted with a legislative intent. Likewise the reason behind enacting this law is to safeguard the modesty of women and to protect them from alleged unnecessary harassments by the police. Even if a woman has to be arrested under exceptional circumstances, such arrest shall be made by woman Police Officer and prior to such arrest permission needs to be obtained from local Judicial Magistrate First Class.

<sup>13</sup> Section 164A

is very shameful but it is being reported in the cases before the honourable Supreme Court. In many cases Hon'ble Supreme Court and different High Courts declared that women have misused the laws specifically made for them to satisfy their ego and their needs, as the result an innocent man get punished. It is good if women took recourse to the law to get justice for herself and seek freedom from cruel marriages, but it is shocking to read that there were also claims where innocent men and their families were implicated in false cases. Many times such an act equals to extortionists. There are number of cases wherein the provisions of several criminal laws including Domestic Violence Act are being misused<sup>14</sup>. This can be proved by the judgments of Hon. Supreme Court and State High Courts.

In *Basanagouda Patil*<sup>15</sup> the father and mother of Sri Channareddy<sup>16</sup> because of the relationship with the respondent they were allegedly made accused by his wife without any allegations or grounds under any of the provisions as mentioned under the Domestic Violence Act. They claimed that they were made parties unnecessarily to harass them. They approached the High Court and claimed that the said petition was not maintainable against them. The hon'ble Justice K. N. Phaneendra opined that “..... *the respondent has made these two persons as parties may be with an intention to see that if they are made as parties the matter may be compromised.*” This kind of involving innocent people in cases deems to be the misuse of the law. He further expressed that, “*The petitioners herein should not be called upon to answer the allegations in the petition which do not constitute any of the ingredients of the Domestic Violence Act*”. Thus found substantial ground to quash the proceedings against the petitioners.

In the case of *Arnesh Kumar*<sup>17</sup>, the allegations of wife were that she was lashed out of the matrimonial home when she was not able to fulfilment the demands by her husband and his family. In apprehension of arrest her husband filed anticipatory bail which was not successful, thus by special leave petition he approached the Supreme Court. The Court was of the opinion, “that the fact that Section 498A, IPC is a cognizable and non-bailable offence, it is more often than not is used as a weapon rather than shield by disgruntled wives”. The court also finds that such a behaviour “...results in harassing the husband and his relatives by getting them arrested under this Section” the court was disturbed by the fact bedridden grandfathers and grandmothers were also arrested that too without a prima facie case against them.

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<sup>14</sup> Preeti Gupta vs. State of Jharkhand, AIR 2010 SC 3363, Sushil Kumar Sharma Vs. UOI 2005 6 SCC 281, State of Haryana v. Bhajan Lal, AIR 1992 SC 604, Lalita Kumari v. State of Uttar Pradesh AIR 2012 SC 1515

<sup>15</sup> Basanagouda Patil S/O ... vs Shashikala @ Akkamahadevi decided on 6 April, 2015 Karnataka High Court

<sup>16</sup> respondent No.1 in case under Domestic Violence Act before the JMFC, Yadgiri, Karnataka

<sup>17</sup> Arnesh Kumar v. State of Bihar

Alleging that her marital relationship was not cordial as her husband who tortured her mentally and physically the wife left her matrimonial home, she came to reside with her father. Then she got to know that her husband has remarried, she charged her husband under Section 498A of IPC, 1860. The court relying on several precedents observed that “..... It must be established that the woman has been subjected to cruelty continuously” or it must be at least in close proximity of time of lodging the complaint. In this case *Manju Ram Kalita v. State of Assam*<sup>18</sup> court opined that petty quarrels would not come under the purview of “cruelty” thus the court clearly stated that there must be cleared and specific allegations against the accused persons to come within the ambit Sec. 498-A. this is the best example of misuse of Sec. 498-A<sup>19</sup> of IPC.

Another case of misuse of marriage laws is in *Devi v Ramesh Chand & Ors*<sup>20</sup>. In this case the Hon’ble Delhi High Court opined that Women are filing a case against maximum people of the family of the husband at a time, when the cruelty or an offence was committed by only the husband or the in-laws or both. The Hon’ble Court directed that the whole family of the accused must not be charged instead the case should be filed against those people who are actually responsible. It further noted that “.....there is growing tendency to come out with inflated and exaggerated allegations roping in each and every relation of the husband and if one of them happens to be of higher status or of vulnerable standing, he or she becomes an easy prey for better bargaining and blackmailing. The abuse of 498-A is undermining the very fabric of marriage, and the law is unsuitable for social health”.

Hon’ble Supreme Court in *Sushil Kumar Sharma v. Union of India and others*<sup>21</sup> held that "The purpose of 498-A is to stop dowry, but many types have been uncovered, in which complaints have been made with this evil mind. The court, court declared that the misuse of the provision of a the laws as new legal terrorism. The court was of the opinion that “....the provision is intended to be used as a shield and not an assassin’s weapon.”

False cases are registered under section 498-A, 304-B, 306 and 34 of IPC, 1860 and are generally to cover up the mistakes by the married woman, though wrong they are taking advantage of divorce by mutual consent, wherein wife is demanding large amount of alimony. By filing false cases they are harassing of husbands, this leads to spreading false statements about his suspicious character or his

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<sup>18</sup> (2009) 13 SCC 330

<sup>19</sup> Supra note 2

<sup>20</sup> 2003 Cri. L.J. 2759, 104 (2003) DLT 824, II (2003) DMC 328, 2003 (69) DRJ 6

<sup>21</sup> Writ Petition (civil) 141 of 2005 order on 19 July, 2005,(JT 2005(6) 266) see also Kanaraj vs. State of Punjab (2000 CriLJ 2993), Saritha v R. Ramachandran (I (2003) DMC 37 [DB]), Jasbir Kaur vs. State of Haryana ([1990]2 Rec Cri R 243)

behaviour which is endangering her life. It is very unfortunate that due to this type of frivolous or fabricated cases men are losing faith the marriage institution as well as in the judiciary. In *Rajesh Sharma and Others v. State of Bihar*<sup>22</sup>, the court gave some directions to avoid the misuse of Section 498-A of IPC. Filing a false case is clear pressure tactic which is used to harass the husband so that he is prevented from filing and pursuing divorce<sup>23</sup>.

It is noteworthy that actions are initiated against men under Sections 323, 341, 354, 354A, 354B, 354C, 354D, 506, 509, IPC etc. only for an ulterior purpose. The Delhi High Court in *Laishram Premila Devi & Ors. v. The State & Ors*<sup>24</sup> opined that it is time to take action against persons who are filing complaints irresponsibly. In this case the court while disposing the case imposed a cost of Rs. 30,000 on the petitioners with a warning not to file false and frivolous cases. In *Anita Suresh v. Union of India & Others*<sup>25</sup>, The Hon'ble High Court of Delhi ruled that the complaint appeared to be false and seemed to have been filed with “*some ulterior motive.*” stating further that her writ petition (against the order of the ICC) was without merit, it dismissed the complainant and has passed an order directing the petitioner/complainant to pay a fine of INR 50,000 for filing a false complaint and misusing the provisions of the POSH Act, 2013.

Equal standing for women in the work place their self-respect are protected, it cannot be allowed to be misused by women to harass someone with an exaggerated or nonexistent allegations<sup>26</sup>. In *Rashi v The Union of India*<sup>27</sup> The court was of the opinion that the petition was the misuse of the gross process of law only with mala fide intentions to secure job. In *Dr. P. Shashikumar v. The Director, Animal Husbandry and Veterinary Services, Chennai others*<sup>28</sup> a false case is filed by wife only to harass the Petitioner and due to such false complaint the Respondent No.1 has suspended the

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<sup>22</sup> (Crl.) No. 2013 of 2017

<sup>23</sup> Major Singh & Anothers v. Sarabjit Kaur CRM-M-34824-2015, Punjab High Court on 6 September, 2018

<sup>24</sup> Crl. M.C. 533/2021 and Crl. M.C. 534/2021 on 23.02.2021 on February 23, 2021 in a landmark decision The complaint is registered under Sections 509, 506, 323, 341, 354, 354A and 34 IPC, when she was going to drop her children to school, the accused who reside in the neighborhood beat her and outraged her modesty and also committed act of sexual harassment. But with the intervention of some common friends, relatives and family members, the parties have settled their dispute; such allegations have the effect of tarnishing the image of the person against whom such allegations are made. Also see Riya Mishra , September 05, 2019, writes, in a case at Amity, Noida, where two girls not only asked a gang of 25-30 goons to beat up the victims brutally over a lame parking argument but filed a false molestation case on them, whereas one of the victim has been declared dead. <https://timesofindia.indiatimes.com/readersblog/riyable/the-gender-advantage-women-who-misuse-it-men-who-bears-it-5475/>.

<sup>25</sup> P (C) 5114/2015, on 9 July, 2019

<sup>26</sup> *Union of India v. Reema Srinivasan Iyengar*, WP Nos. 10689, 24290 and 4339 of 2019 on : 17.02.2020

<sup>27</sup> W.P. (C) 10544/2018 & CM APPL. 41135-41136/2018 on 17 July, 2019.

<sup>28</sup> W.P.No.1613 of 2021 on 31.03.2021. Hon'ble Madras High Court has observed that “*Protection of Women from Domestic Violence Act, 2005 suffers from inherent flaws which tempt women to misuse their provisions and men to dread being prosecuted under the law without any rhyme or reason. The notable flaw in this law is that it lends itself to such easy misuse that women will find it hard to resist the temptation to teach a lesson to their male relatives and will file frivolous and false cases*” The judge also said that a similar trend of misuse was observed in the case of Section 498-A of the Indian Penal Code.

petitioner from service. In *Anoop and others Versus Vani Shree*<sup>29</sup>, the court observed that this law with regard to particularly protect Women from Domestic Violence is being used to terrorise the husbands, as well as their families and distant relatives. Hon'ble Justice S. Vaidhyanathan suggested that *"Husbands and wife must realize that, 'ego' and 'intolerance' are like footwear and should be left out of their house when they enter the home, else, the child/children will have to face a miserable life"*<sup>30</sup>. The majority of such complaints are lodged over trifling issues, it is the on the spur-of-the-moment reaction for which many human hours are wasted to come to the conclusion that all the things were actually exaggerated. Argument of parents make children insure, uncomfortable, and distress. In *Chander Bhan v. State of Delhi*<sup>31</sup>, the Delhi High Court had ascertained that *"there is no iota of doubt that most of the complaints are filed in the heat of the moment over trifling fights and ego clashes. It is also a matter of common knowledge that in their tussle and ongoing hostility, the hapless children are the worst victims."* Children often become quiet and freeze seeing their parents fight. They become confused because they don't know how to react to the situation; the disputes can affect a child's personality and hamper their present and future social interactions. In such situation there is dispute before court on custody.

## Conclusion

India saw a revolution pink, respect for women, punishments for abuse women, and enacted laws to educate and empower women. The bad patch of time was meant to be eradicated, but it is very regrettable that women are using these laws as weapons to abuse others not only men but even women. Laws are meant to protect the weak, to empower the venerable, to educate the illiterate, and to augment the good relations. But we see a very treacherous use of laws merely to harass husband, his family<sup>32</sup>, male colleague or superior and other male relatives just to extract extra money, alimony, shares in property etc. We promised equality, fraternity and justice to all under the umbrella of constitution, but if we succumb to such extremist act of the legal terrorism as mentioned by courts are we not heading to an imbalanced society? We don't want to see those days where we will be enacting legislations to protect man from woman. It will definitely effect the social, family and even work-place relations of man and woman.

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<sup>29</sup> 2015(2) RCR(Civil) 1035

<sup>30</sup> *Dr. P. Shashikumar v. The Director, Animal Husbandry and Veterinary Services, Chennai* others, Supra 21

<sup>31</sup> order dated 4.8.2008 in Bail application No.1627/2008

<sup>32</sup> Jagbir Singh Malik, Anuradha Nadda, *A Cross-sectional Study of Gender-Based Violence against Men in the Rural Area of Haryana, India*

## Suggestions

Chief Justice of India Hon. Mr. N. V. Ramana suggested in his speech said that, with our practical realities it is high time for Legislature to revisit laws and if necessary reform them to suit the needs of the times<sup>33</sup>. As rightly suggested by Honourable Chief Justice, the author intends to suggest the following,

1. Commissions should be constituted for research with respect to crimes against men.
2. As there is no provision in legislation for husband to proceed against the wife in the matrimonial laws, it is recommended to amend these laws as it is essential for protection of husband and their families or male victims of violence by women. Male and female accused /conspirator of sexual violence should be punished equally without any discrimination.
3. Laws must be amended to make provision to punish women who file complaints for superfluous reasons, thus this will prevent misuse of legal provisions in favour of women<sup>34</sup>.
4. Make provisions to spread legal awareness by legal literacy camp through NGO or Para legal volunteers, Court, lawyers and academician, regarding sexual violence against men in the form of campaigns, reports, articles etc. also provide helpline to advice citizen soundly, and prevent gross injustice.
5. A separate court for men must be established on the basis of Mahila *Adalat*, separate court for women.

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<sup>33</sup> on 25 Sept. 2021at Odisha State Legal Service Authority in Cuttack Recently

<sup>34</sup> See Vanya Agarwal, *International Journal Of Law Management & Humanities*  
see also Mr. Swaroop Sarkar , Mr. Rudolph Dsouza , Mr.Amitabh Dasgupta , “*Domestic Violence Against Men*” Study Report By Save Family Foundation

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**Bare Acts**

1. Hindu Marriage Act, 1955
2. Special Marriage act, 1954
3. The Hindu Adoption and Maintenance Act, 1956
4. Protection of Women from Domestic Violence Act, 2005
5. The Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Redressal) Act, 2013
6. Criminal Procedure Code, 1973
7. Indian Penal Code, 1860