

## MISUSE OF MATRIMONIAL LAWS: NATIONAL

**NEWS:** Marriage is spiritual union, not legal battle: Bombay High Court flags misuse of matrimonial laws

### WHAT'S IN THE NEWS?

Matrimonial laws in India like IPC Section 498A and the Dowry Act, though meant to protect women, are increasingly being misused for harassment and leverage in marital disputes. Courts and committees have recognized this misuse, calling for balanced reforms, safeguards, and judicial prudence

#### **Context: High Court's Observation**

The **Nagpur Bench of the Bombay High Court** quashed a criminal case involving **Section 498A IPC**, **Section 377 IPC**, and the **Dowry Prohibition Act**, stating:

- **Marriage is a sacred institution** and should not be reduced to prolonged, unproductive legal battles.
- **False allegations** can destroy families, cause mental trauma, and overload the legal system.

### **How Matrimonial Laws Are Being Misused**

#### **Section 498A of IPC – Cruelty by Husband or Relatives**

- Enacted to protect women from cruelty and harassment.
- Misuse: Often used to implicate **multiple family members**, including elderly or distant relatives, without substantive proof.
- Automatic arrests cause trauma and long-term reputational damage.

#### **Section 377 of IPC – Unnatural Offences**

- Initially criminalised "unnatural" sexual acts (now decriminalised for consenting adults).
- In matrimonial disputes, it is misused to pressurise the accused or gain leverage in negotiations.

#### **Dowry Prohibition Act, 1961**

- Intended to curb dowry demands and protect women.
- Misuse: False cases are filed during divorce, property disputes, or alimony claims to gain legal advantage.

#### **Protection of Women from Domestic Violence Act, 2005**

- Provides civil remedies for physical, emotional, and economic abuse.
- Misuse: Inflated or fabricated charges used to:

1. Obtain residence rights.

2. Harass in-laws.
3. Strengthen one's position in related civil litigation.

## **Committees and Institutional Reports on Misuse**

### **Malimath Committee (2003) – Criminal Justice Reform**

- Recognised misuse of Section 498A.
- Recommended that it be made **bailable** and **compoundable**.
- Called for a more evidence-based investigation approach.

### **Law Commission of India – 243rd Report (2012)**

- Acknowledged the misuse but cautioned against weakening protection for genuine victims.
- Urged a balanced mechanism ensuring both **protection** and **procedural safeguards**.

### **National Commission for Women (NCW)**

- While advocating women's protection, also recognised misuse.
- Recommended stronger investigation protocols before arrests.

## **Consequences of Misuse**

### **Psychological Trauma**

- Innocent persons, especially elderly relatives, face deep emotional and social trauma.
- Even if acquitted, the **social stigma** may persist for years.

### **Overburdening the Legal System**

- False or exaggerated complaints clog the system.
- Genuine victims suffer **delays in justice** due to overwhelmed police and court systems.

### **Erosion of the Marital Institution**

- Rising misuse may convert marriage into a legal battlefield.
- Undermines mutual trust, reconciliation efforts, and long-term stability of family units.

### **Violation of Fundamental Rights**

- Arbitrary arrests and prolonged trials infringe on **Article 21** (Right to Life and Personal Liberty).
- Innocents endure lengthy criminal litigation without cause.

## Key Judicial Observations and Precedents

### Gian Singh v. State of Punjab (2012)

- Supreme Court allowed criminal proceedings in matrimonial cases to be quashed upon **mutual settlement**.

### Narinder Singh v. State of Punjab (2014)

- Held that proceedings can be quashed if:
  - Offences are of **personal nature**.
  - Public interest is not adversely affected.

### Arnesh Kumar v. State of Bihar (2014)

- Directed police to avoid **automatic arrests** under Section 498A.
- Mandated **preliminary inquiry** to prevent misuse and safeguard liberty.

## Steps Taken by the Government

### Advisory by Ministry of Home Affairs (2015)

- Directed police authorities to conduct a **preliminary inquiry** before arresting under Section 498A.

### CrPC Amendment (2023)

- Introduced stricter norms and guidelines for **arrest and investigation** in matrimonial cases.

## Family Counselling and Mediation Cells

- Set up in district courts to encourage **reconciliation** and dispute resolution without litigation.

## Faster Court Proceedings

- **Family courts** are empowered to resolve sensitive cases with **speed and confidentiality**.
- Judges are specially trained for handling matrimonial disputes.

## Way Ahead: Recommendations for Reform

### Balanced Legal Reform

- Amend Section 498A to be **compoundable** with court permission.
- Consider **gender-neutral language** for specific legal provisions.

### Mandatory Pre-FIR Mediation

- Introduce **cooling-off periods** before registering a criminal FIR.
- Promote mediation and family counselling as a first resort.

### **Judicial Sensitisation**

- Train judges to distinguish between **genuine and malicious** cases.
- Encourage periodic updates and sensitisation workshops.

### **Penalty for False Complaints**

- Invoke **Section 211 of IPC** (false charges) in proven misuse cases.
- This acts as a **deterrent** against filing fabricated complaints.

### **Strengthening Legal Aid and Awareness**

- Launch legal literacy drives to inform both genders of:
  - Their rights and remedies.
  - Responsibilities under marriage laws.
  - Availability of legal aid and counselling.

**Source:** <https://www.thehindu.com/news/cities/mumbai/marriage-is-spiritual-union-not-legal-battle-bombay-high-court-flags-misuse-of-matrimonial-laws/article69811385.ece#:~:>