

ISSN: 2583-8725

Lex Scripta Journal

Quarterly Online and Print Edition

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**LEX SCRIPTA MAGAZINE OF
LAW AND POLICY (VOL-4, ISSUE-1)**

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ISSN-2583-8725

Vol - IV, Issue - I

Published by INTEGRITY EDUCATION INDIA

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Padam Chand Marg, Daryaganj,
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Phone: +91 98 11 66 62 16 (Vineet Sharma)

Printed in India @ New Delhi

ISSN: 2583-8725

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Misuse of Women Centric Legal Provisions By Women

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Misuse of Women Centric Legal Provisions by Women

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Introduction

Indian Government has made numerous legislations to provide equal status to women in our country and secure their lives from various violence, crimes and financial crisis. The objective behind drafting these enactments were to make women empowered, where they are treated with same status that of men in all the fields of the society. One prominent Law governing the licit practices that entails the legal facet of varied family relationships such as Child Support, Adoption, Marriage, Divorce, Child Custody etc. is the Family Law. This law comprises of two major divisions namely Family Formation and the rights and obligations arising when one gives Legal validation to the Family Relationships. The Formation of the family relates to the Law of Adoption, Marriage, son ship and child support whereas rights and obligations deriving as a part of these legitimate Family relationships relate to Laws of Inheritance and Partition. The Indian Family laws also govern family matters like paternity, emancipation, child custody etc not necessarily related to divorce. On the other hand, different religions in India administer the Family Law based on their own personal laws such as Hindu Law (1955-56), Muslim Law (Shariat Act 1937), Christian Law, Parsi Marriage and Divorce Act 1936 respectively.

Definition of Word ‘Misuse’

Etymologically, the meaning of word “*Misuse*” is using something incorrectly or in a harmful way.

Some more definition of word misuse from different dictionaries are as follows: As per *Dictionary.com*, the word misuse means “*Wrong or improper use; misapplication*”.¹

According to *Merriam Webster*, the word misuse means “*to use incorrectly*”² Whereas, *Cambridge Dictionary* uses the word misuse as, “*to use something in an unsuitable way or in a way that was not intended*”.³

¹ Available at: <https://www.dictionary.com/browse/misuse>, July 2023

² Available at: <https://www.merriam-webster.com/dictionary/misuse> July 2023

³ Available at: <https://dictionary.cambridge.org/dictionary/english/misuse> July 2023

As per *Oxford learners' dictionaries*, the word misuse means “misuse something to use something in the wrong way or for the wrong purpose”⁴
The Britannica defines the word misuse as “To use (something) incorrectly”⁵

Misuse of provisions made for the protection of women

The Bhartiya Nyaya Sanhita, 2023 (Previously Indian Penal Code)

Misuse of Section 498 A IPC: Cruelty⁶

The Section of 498-A deals with cruelty. It includes in its definition both mental and physical cruelty. Dowry Prohibition Act and Domestic Violence Act, both did not have any provision related to cruelty which led to this Section added in Indian Penal Code. But this Section and its use is not strictly limited to the above two laws only.

There has always been a huge hue and cry about this Section. The Section makes the offence of cruelty non-bailable, non-compoundable and husband, husband's family members as well as husband's distant relatives can be booked under this Section.

- **Malimath Committee Reports of CJS 2003**

In the report of Malimath Committee on Reforms of Criminal Justice System, 2003⁷, Government of India it was recommended that this offence should be made compoundable and bailable. It recommended so as it stated that if the offence will be non-bailable, then the husband will lose his job and the woman will not get maintenance which will further worsen the condition of the woman as she will rarely have any support from the society. It stated that the wife and the husband may reconcile their issues but its non-compoundable nature renders any possibility of settlement and reconciliation defeated. The Committee of Petitions, a committee at work in Lok Sabha, headed by Shri Bhagat Singh Koshiyari, suggested that this Section should only be made non-compoundable and not bailable. It was suggested so taking in view that the non-compoundable nature of the Section leaves any reconciliation between the spouses in vain.

- **Law Commission 237th Report**

The Law Commission of India in its Two Hundred and Thirty-Seventh Report⁸, gave a para regarding 498-A and recommended the need of it to be made a compoundable offence. The Law Commission stated that the Section should not come between any reconciliation between the spouses. It stated that the objective of the Section is not to punish the accused but to empower the women and provide her with justice. If the issue is resolved between the spouses then the court should

⁴ Available at: https://www.oxfordlearnersdictionaries.com/definition/english/misuse_2 July 2023

⁵ Available at: <https://www.britannica.com/dictionary/misuse> July 2023

⁶ Section 85 of BNS, 2023. “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 punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

⁷ Malimath Committee Report, 2003, Government of India, Ministry of Home Affairs

⁸ All of this only added fuel and maybe an inch of power to the discourse that “Women Misuse Laws and harassment”, “this law is made to harass men” etc.

not go on with the proceedings. The Law Commission hence recommended that the offence should be made compoundable but with the permission of the court. The Judiciary also in various judgments made comments about the misuse of the Section. In *Preeti Gupta vs State of Jharkhand*⁹ court commented that women make exaggerated versions of the incidents and pull those relatives also who are not involved to be booked. The court used the phrase “Legal Terrorism is unleashed”. The Supreme Court in *Ramgopal v. State of Madhya Pradesh*¹⁰ made an observation that this Section should be made compoundable. The court in the case of *Chandrabhan Vs. State*, observed 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”¹¹

All the above observations by various Courts set the mood for its recent judgment in *Radhe Sharma v. Union of India*¹². The judgment laid down a different procedure to arrest and formation of Family Welfare Committees to look into matter of 498-A. Arrests will be now made on the recommendation of these Committees.

All of this only added fuel and maybe an inch of power to the discourse that “Women Misuse Laws and harass men”, “this law is made to harass men” etc.

- **Law Commission Report 243rd**

The Law Commission of India in its Two Hundred and Forty-Third Report¹³, state that though there are false cases filed and more acquittals and fewer conviction under this Section, yet it does not provide as an empirical data on misuse of this Section. It did recommend to make it compoundable though.

When judiciary decides to go by the numbers of false cases or acquittals, it fails to treat every case on its individual merit. It clubs together all kinds of cases coming under this law and terms it as one. The judgments and order in these cases should not depend on previous rulings or what the police reports say. There was no data from any expert or appointed committee on the misuse of this law.

Furthermore, the court has failed to look into ground realities. This Section was introduced as a relief for a bride who is subjected to cruelty. By looking at a few false court cases, the court turned a blind eye to those women who are clutched in the social realm. The rural women, the women with no education, the women with no economical bargaining power. It has, with the recent judgment, taken away the very last resort a bride had against cruelty while focusing on a ‘truth’ which was established by a repeated rhetoric of bias.

Also, when looking at the statistics of false reports, it can be concluded that these are mainly the complaints filed under Dowry Protection Act. Cruelty is not

⁹ 2010 (7) SCC 667

¹⁰ Special Leave Petition (Crl.) No. 9221 Of 2018

¹¹ *Chandrabhan v. State* (order dated 4.8.2008 in Bail application No.1627/2008)

¹² *Radhe Sharma v. Union of India*, AIR 1968 M.P. 121

¹³ Law Commission of India, *243rd Report on Section 498A IPC* (August 2012) 1.

limited to these Acts and hence it defeats its individual purpose and relief granted by it anymore.

‘Misuse’ of Eve Teasing Laws by Women

Eve teasing as mentioned in section 296 of BNS, 2023 is one of the bitter truths of our society. However, there are strict laws to cover it. Several sections of the BNS describe the punishments for it, classified as cognizable and non-compoundable. These Sections are:

1) Section 296 of BNS, 2023

“Whoever, to the annoyance of others;

(a) Does any obscene act in any public place, or

(b) Sings, recites or utters any obscene song, ballad or words, in or near any public place,

Shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.”

2) Section 74 of BNS, 2023

“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, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

3) Section 75 of BNS, 2023

“Sexual harassment and punishment for sexual harassment-

(1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

4) Section 78 of BNS, 2023

“(1) Any man who—

i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that--

(i) it was pursued the purpose of preventing or detecting crime, and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.”

5) Section 79 of BNS, 2023

“Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

Sufficient to say, there exist enough provisions in the Law of the land to ensure punishment for those found indulged in eve-teasing. However, a lot of times, these stringent laws may not prove fruitful for the real victim if the perpetrator is more powerful, which is the case generally.

However, these laws on eve-teasing are also prone to misuse specifically by women because they automatically assume that the victim must be a woman only. Let us discuss a case to understand this concept.

Case Study

(1) On 23rd August 2015, a 21-year-old student of St. Stephen’s College named Jasleen Kaur posted a picture of a man on his bike and claimed that he had passed obscene comments at her¹⁴. The post read:

“This man (a misnomer) made obscene comments on me today at around 8 pm near Aggarwal, Tilak Nagar. He was on a silver Royal Enfield, vehicle number - DL 4S CE 3623. When I told him that I’m clicking his picture and I’m going to

¹⁴ Jasleen Kaur Harassment Controversy’ *Wikipedia*

https://en.wikipedia.org/wiki/Jasleen_Kaur_harassment_controversy accessed July 2025.

file a complaint against him, he responded by posing for the picture and said- "Do whatever you want. Go file a complaint and see what I'll do then".¹⁵

But there was something that is disturbing me much more than his obscene remarks- the fact that it was a red traffic signal and 20 other people heard what he was telling me. Yes, no one minded. No one intervened. No one stood up for me. I decided to stand up for myself and lodged a complaint in Tilak Nagar police station with his photo and vehicle number.

Share his picture and vehicle number as much as you can to pin this creep. (only if you care).

Today he had the audacity to say these things to me; tomorrow he will have the audacity to move one step ahead and do it.

PS- I could've written here exactly what he said in his comments, but I don't want FB to remove my post."

As per Jasleen Kaur's account, the man named Sarvjeet Singh was trying to jump the signal, and she asked him to respect the traffic rules. Upon this, the two entered into an argument, and the man resorted to using obscene language.

As per Sarvjeet Singh, he was trying to turn left, which is allowed even during a red-light signal, but Jasleen Kaur was adamant that traffic rules were being broken by him. Upon receiving a reply from the man, the woman clicked pictures of the man sitting on his bike, which were posted by her on social media later on. As soon as it was posted, the Post went viral on social media, receiving more than 1 lakh 'shares'. The Chief Minister of Delhi had tweeted in favour of Jasleen Kaur, asking other women in Delhi to follow her example and speak up for themselves. The Chief of Delhi Commission for Women (DCW) also supported the woman. Impressed with her bravery, the Deputy Commissioner of Police (West) announced that she would be given 5,000 INR for it.¹⁶

The Case went on for three years, and with the woman getting settled in Canada, she did not attend any hearing for three years citing "academic commitments" to justify her absence for three years. Sarvjeet Singh, on the other hand, was referred to as a 'pervert', lost his job and had to attend every hearing of the Court which could not resume because of Jasleen Kaur's absence. On the 24th of October 2019, four years after the incident, judgement was passed by the Court which acquitted Sarvjeet Singh of all charges against him by holding him innocent. The Court observed that "the testimony of the complainant is not trustworthy and casts serious doubt on the case of the prosecution."¹⁷

Therefore, it may be said that the laws meant for the protection of women get highly misused. Although generalizations are wrong and that the plight of women in our society is not as good as it should have been a fact, it cannot be used as an

¹⁵ Rao, Mamta, *Law Relating to Women and Children*, 100 (Eastern Book Company, Lucknow, 2008).

¹⁶ Singh, A.K., Singh, S.P., and Pandey, S.P., *Domestic Violence Against Women in India*, 85 (Eastern Book Company, 2009).

¹⁷ Saxena, Shobha, *Crimes Against Women and Protective Laws*, 90 (Deep and Deep Publications Pvt. Ltd., New Delhi, 2004).

argument to justify and defend the indefensible deceit that is used by some of them use these days. Sexual assaults, rapes, dowry harassment and eve-teasing are very serious and real issues. When even one person misuses these laws for reasons best known to her, she lets down a number of women who genuinely deserve justice and for whom these laws are really needed.¹⁸

‘Misuse’ of Sexual Harassment Related Laws by Woman

Undoubtedly, because of a number of reasons, the issue of sexual harassment has seen an upward trend and spread like wildfire. These reasons include lack of awareness, lack of sex education, lack of education, etc. Deterrence of the wrongdoers by framing them under the law of the land is the only lawful way of punishing the culprits and preventing further cases. The laws against sexual harassment are stringent in India for doing the needful. However, these stringent laws aren't free of loopholes, either. The exploitation of these loopholes is as important an issue as the crime itself. While there are enough provisions for a female victim to report the issues related to sexual harassment, the law does not really have enough provisions to verify the claims made by her against the harasser, who happens to be male.

Consequently, our laws are based on the belief that any woman who directly or indirectly complains of sexual assault must be speaking the truth. Hence, the male member is held guilty in our society even before some concrete evidence is brought to prove his guilt.¹⁹ The male member, more or less, gets reproached by the entire society surrounding him.

On 27th October 2020, the National Human Rights Commission (NHRC) recommended not disclosing or hiding the identity of the person accused of rape or sexual assault until proven guilty. This was one of the suggestions of a study conducted jointly by the NHRC and Centre for Women's Development Studies, titled "Interrogating violence against women from the other side: An exploratory study into the world of perpetrators". It is said in this document that the revelation of names can have serious ramifications when the accused is later found to be innocent. This study included in its purview experts from various fields including, but not limited to, law, media, police, child and gender rights and psychiatry.²⁰

The majority of the perpetrators claimed that they had a consensual romantic involvement with the females, whose families, upon discovering the same, got them booked under sexual assault. A study by The National Human Rights Commission (NHRC) surveyed 43 juvenile boys housed at Sewa Kutir in Delhi who had been framed under sexual assault charges. About 40% of them denied the charges by saying that they had made consensual relations, but either the girl turned bitter after it or the family of the girl disapproved of their involvement.²¹

¹⁸ Singh, J.S.P., *Socio-Economic Offences*, (Sri Sai Law Publications, Faridabad, 2005).

¹⁹ Jain, Dr. Nisha, "Violence Against Women with Special Reference to the Protection of Women from Domestic Violence Act, 2005", *Diviner*, Vol. 6, No. 1, (January – June, 2009).

²⁰ Mohini, Lalsa, "Legitimacy of Section 498 A of Indian Penal Code", *Cri LJ* (April, 2011).

²¹ Renu Addlakha et al (eds), *Interrogating Violence against Women from the Other Side: An Exploratory Study into the World of Perpetrators* (Centre for Women's Development Studies, 2020) (supported by the National

The study also took into account the versions of 20 adult accused men at the Tihar Jail. “A majority of the interviewees in Tihar Jail denied the charges. Most of them blamed the criminal justice system, which was, in their view, tilted towards the victim. Others claimed that the charges were levied against them due to reasons such as family rivalry or alcoholism. Some others denied the charges claiming they were co-accused in a gang-rape, in which they played little to no part,” is what the survey added.²²

While it is true that the versions of these people are not completely reliable, too, but the benefit of the doubt needs to be given to them. Our judicial system ought to be based on the principle that even if 99 criminals are freed of the charges imposed on them, a single innocent should not be punished. However, there is a lot of difference between ‘what ought to be’ in society and what really is happening. In India, we are seeing an increasing trend of false cases being filed, which pertain to sexual harassment and rapes. The trend is, these days is being recognized by the Courts, too.²³

The Dowry Prohibition Act, 1961

What is this bane of dowry? Why do individuals dread it to such an extent? Dowry incorporates every one of those advantages or significant property conveyed or consented to be conveyed, straightforwardly or in a roundabout way either by the lady of the hour or the guardians of the lady of the hour or some other gathering for the lady to the husband or his folks or to some other individual tolerating it for his sake.

However, the term ‘dowry’ is not inclusive of dower or ‘Meher’ in case of parties being Mohammedans and their marriage being governed by Sharia laws.

The old marriage ceremonies in the Vedic period are connected with Kanyadan. It is set down in Dharamshastara that the praiseworthy deed of Kanyadan is not total till the husband is remunerated ‘Dakshina’. So, when the father of the lady of the hour gives away his little girl to the husband, the lucky man must be given presents in real money or kind which constitutes his Vara-dakshina. Accordingly, Kanyadan got connected with Vara-dakshina. The Vara-dakshina should be offered out of adoration and warmth and not under any sort of compulsion or as thought for the marriage. It is a practice intentionally practiced with no convincing hints. With the course of time and increasing greed and dishonesty among people, the voluntary aspect of dowry has disappeared and coercive character has raised its ugly head. It is now deeply rooted not only in the wedding rituals but also post nuptial tie.

The practice of giving dowry is a huge blot upon the Indian marital system and claims the lives of many an innocent brides every year in the Indian sub-

Human Rights Commission), Observation Home for Boys, Sewa Kutir (43 interviews) <https://nhrc.nic.in/sites/default/files/InterrogatingViolenceAgainstWomenharboundreport2020.pdf> accessed 22 August 2025.

²² Pandit, Taranga, “Domestic Violence/Cruelty to Male and need for Legislation”, *Cri LJ* (August, 2011).

²³ Razdan, Usha, “Torture on the Girl Child”, 54 *JILI* (2012).

continent. Even though we have strictures in place that criminalise demanding or paying dowry in any form, we still come across a large number of cases wherein wives have been abandoned or forced to end their lives or killed brutally in the greed for dowry. However, the other side of the coin is that a significant number of women are using these strict provisions to falsely implicate their husbands and their families in vexatious litigations.

‘Misuse’ of Laws by Woman in Dowry Harassment Cases

The Dowry Prohibition Act, 1961, deals with the various legal aspects of dowry in India. Section 1 of this Act defines ‘dowry’ as:

“...any property or valuable security given or agreed to be given either directly or indirectly:

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies”.²⁴

For demanding dowry, too, there are provisions of this Act under which the family of the groom can be booked. The Act prescribes imprisonment of not less than five years and a fine of 50,000 INR or the amount of the dowry, whichever is more.²⁵

Dowry is a serious menace in India. Statistics say that an average of 20 women dies every day in India as a consequence of harassment over dowry. These women are either forced to commit suicide or are murdered. And these deaths are the ones that get reported. There is an acute under-reporting of real cases in India. Although criminalized since 1961, dowry is still a very significant part of marriages in India.

In 1983, there was an amendment to the IPC, which include Article 498A. This system of dowry makes it mandatory for the family of the bride to pay something to the family of the groom, which could be either in cash or in kind. A lot of times, even after the marriage is done, the groom’s family comes up with new demands, failure to comply with them makes the bride pay a very serious price.

Case Study 1

“In one of the cases reported in Bengaluru in January 2020, a few weeks after marriage, a husband demanded cash despite receiving 1kg gold in dowry as per his demands. When the extra demand was denied, he burnt his wife”.²⁶

This practice is basically a manifestation of the prevailing patriarchy in our society. Moreover, the system is deeply rooted in society to the point that a lot of people do not think of it as a ‘crime’ at all.

²⁴ Mishra, S.N., *Indian Penal Code*, (Central Law Publications, Allahabad, 2005).

²⁵ Chandna, J.D., *Law Relating to Dowry Deaths, Dying Declarations, Suicides and Cruelties to Women*, (Bright Law House, 2nd Edition, 2009).

²⁶ Meenakshi, J., *Women and New Social Order*, (Omega Publications, New Delhi, 2007).

However, this is also one of the most misused laws in the country. Statistics reveal that men and their families, who were actually innocent, get falsely implicated by extortionists.

Although there are several cases where the laws pertaining to dowry harassment have been misused, the most famous one among them is the Nisha Sharma Dowry Case.²⁷

The case dates back to the year 2003. Nisha Sharma was 21 years old back then, and her parents, Dev Dutt Sharma and Hemlata Sharma had given advertisements in the matrimonial section of various newspapers, as is a common trend in the country. Among the first ones to respond to the advertisement was the family of a man named Munish Dalal, a 25-year-old Engineer-turned-Computer Science Professor for a local college. Upon them responding to the advertisement, both the families met and decided to get them married on the 11th of March, 2003, in Noida.²⁸

For the wedding, Nisha Sharma's family had purchased a few gifts, namely, a washing machine, a microwave, a refrigerator and a TV set. However, on the day of the wedding, Nisha Sharma and her family accused the groom's mother of having demanded 12 Lakhs INR and a Maruti Esteem Car in the form of 'dowry'. As per the bride's family, when an inability to pay the dowry demanded was expressed by her father, they were verbally abused. A scuffle then broke out between the two parties leading to the groom's mother slapping the bride's father. Upon this, Nisha Sharma called the Police.

On the other hand, Munish Dalal and his family had a completely different explanation to offer. As per them, on the day of the wedding, there was no one from the bride's side to welcome their procession. Hence, the groom's family sent a relative to find out what was wrong. The relative when returning, met a man who introduced himself as Navneet Rai and claimed to be the first husband of Nisha Sharma's. Then, the bride's father appeared on the scene and started misbehaving with the groom's mother and angrily threw a sandal at her. The bride's father denied such allegations claiming he had video recordings of the same.²⁹

The wedding was called off and the very next day, Munish Dalal and several of his family members were arrested from their residence at Delhi's Vikaspuri. His mother was arrested, too, and other relatives were considered as being absconding. Soon thereafter, Navneet Rai claimed to have been married to Nisha Sharma for the past five years. This was denied by her father as an attempt to malign the girl's image. It was claimed by the family of Nisha Sharma that she was initially interested in marrying Rai but later decided against it because of the man being unemployed. They also claimed that the girl had complained to the

²⁷ Nisha Sharma Dowry Case" Wikipedia (online, 2025) https://en.wikipedia.org/wiki/Nisha_Sharma_dowry_case accessed July 2025.

²⁸ Neelam, Sandhya. *Contemporary Social Problems and Social Change*, (Navyug Publishers, Delhi, 2010).

²⁹ Qadri, S.M.A., *Ahmad Siddique's Criminology*, 29 (Eastern Book Company, Lucknow, 2005).

college authorities claiming misbehavior from Rai's side, which had eventually led to his expulsion from there.

This story had received massive coverage back in 2003 by the national and international media alike. Back in those days, this was the front-page story for almost every major Indian newspaper. Nisha Sharma became an overnight icon for women to follow and look up to. She was interviewed by several newspapers and television channels. She was even invited by a major Indian political party to contest local elections.³⁰

This story found its place in *The New York Times*, where dowry being disguised as gifts was covered in detail by James Brooke. Popular American TV Show on CBS, *60 Minutes*, cited the example of this case to shed light on a number of dowry-related or women-centric issues such as bride burning, female feticide, etc. Indian company Amul popular for its cartoons, covered this incident, too.³¹

Nisha Sharma was being hailed as a feminist icon. Her house would be flocked with activists of women's rights and equality. All of them were of the view that Nisha Sharma's family should not have agreed to provide the groom's family with gifts.

Despite Munish Dalal and Navneet Rai having approached to the Court to delay the marriage, Nisha Sharma got married to a computer engineer named Ashwini Sharma on the 19th of November, 2003. Oprah Winfrey had invited Nisha Sharma, her brother and her husband to her show in January 2004.

Protection of Women from Domestic Violence Act, 2005

The Act ensures woman's right to reside in her matrimonial home. This Act has a special feature with specific provisions under law which provides protection to a woman to live in violence free home. Though this Act has civil and criminal provisions, a woman victim can get immediate civil remedies within 60 days. Aggrieved women can file cases under this Act against any male adult perpetrator who is in domestic relationship with her. They can also include other relatives of the husband and male partner as respondents to seek remedies in their case.³² The Act gives a meaning of 'domestic violence', including physical violence, as well as different types of brutality, for example, sexual, enthusiastic/verbal, and financial misuse. It is a common law proposed for the most part for security arranges and not intended to punish criminally. The DV Act explained "Section 3 of the Act defines 'domestic violence' as any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:

1. harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes

³⁰ Nisha Sharma dowry case – available at Wikipedia, visited on 10.09.2025; Rao, C.N. Shankar, *Sociology of Indian Society*, 55 (S. Chand and Company, 2009).

³¹ Misuse of Gender Laws in India, available at <https://lawcolloquy.com/>, visited on 10.09.2025; Jayapalan, N., *Women and Human Rights*, (Atlantic Publishers, New Delhi, 2001).

³² Protection Of Women's From Domestic Violence ACT | Social Welfare & Women Empowerment Department, Government of Tamil Nadu, India, available at <https://www.tnsocialwelfare.tn.gov.in/>, visited on 10.09.2025.

causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

2. harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

3. has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

4. Otherwise injures or causes harm, whether physical or mental, to the aggrieved person”³³.

This Act plays a crucial character in the societal weave of our largely diverse country. It has empowered battered women who had long been suffering silently domestic abuse at the hands of their husbands and their in-laws to voice themselves and get the perpetrators of the crime punished for their heinous crimes. This legislation has a wide scope and has vastly encapsulated the various forms of marital abuse including sexual abuse at the hands of the husband. However, the issue of marital sexual abuse has not been adequately addressed in India as yet. In fact it has largely been brushed under the carpet. However, this Act has also regrettably been found to be a double-edged sword. Women with vested interests have been found misusing this woman-centric law to harass their innocent husbands and in-laws.

Misuse of Domestic Violence Act, 2005:

The Protection of Women from Domestic Violence Act is a civil law that was passed in 2005 and is directed towards providing relief to the aggrieved party; under this act, the woman who faces violence at home. The origin of the Act is Article 15 (2) of the Constitution of India, which states that “State can make special provisions for women and children” towards realizing the right to equality.

From a feminist’s point of view, the law has traditionally woken from a patriarchal approach and the law’s treatment of women in relation to men has not always been equal and fair. This Act was the first substantial attempt made to draft the law from a new perspective within an old framework.

However, women have insufficient understanding of the law and lack of access to the courts. Hence it is necessary to provide the necessary infrastructural tools with which to access the law can be made accessible. In the Act, the mechanism to breach this gap has been put in place by creating the office of the Protection Officer and recognizing the role of the Service Providers. Duties have been imposed on the government to provide legal aid, medical facilities and shelter homes in the hope that women in distress be given all these facilities. The Act defines “Domestic Violence” under Section 3 for the first time in Indian law. It is a comprehensive definition and is based on definitions in international law such as the UN Declaration on Violence Against Women and a Model Code.

³³ Sec. 3, Protection of Women from Domestic Violence Act, 2005

Definition of domestic violence. —For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse; or

(b) harasses, harms injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

The Act recognizes domestic violence as a human rights violation. It recognizes a woman's right to live in a violence-free home. To realize this right, the Act recognizes a woman's right to residence and her right to obtain protection orders under the law. The relief provided in the Act is meant to provide immediate relief in emergency situations. It also has certain crossovers from civil to criminal law when an order has been violated.

In a 2018 judgment, the High Court of Gujarat in the case of *Bhartiben Bipinbhai Tamboli v. State of Gujarat and Ors*³⁴, while extensively discussing the provisions under the Domestic Violence Act remarked that:

*“The domestic violence in this country is rampant and several women encounter violence in some form or the other or almost every day. However, it is the least reported form of cruel behavior. A woman resigns her fate to the never ending cycle of enduring violence and discrimination as a daughter, a sister, a wife, a mother, a partner, a single woman in her lifetime. This non-retaliation by women coupled with the absence of laws addressing women's issues, ignorance of the existing laws enacted for women and societal attitude make the women vulnerable. The reason why most cases of domestic violence are never reported is due to the social stigma of the society and the attitude of the women themselves, where women are expected to be subservient, not just to their male counterparts but also to the male relatives.”*³⁵

Domestic violence can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Domestic violence, under this Act, can be in any form. The abuse can be in the form of physical, mental, emotional or physiological actions of threats that are used to discriminate against the other partner in the relationship. This is a stellar step to

³⁴ MANU/GJ/0025/2018

³⁵ *Bhartiben Bipinbhai Tamboli v. State of Gujarat and Ors*, Available at: <https://www.casemine.com/judgement/in/5a95628e4a93260d852ceb80>, last accessed on August 2023.

protect women against domestic violence. However, the one place where the act fails is not including the husband under the ambit of domestic violence too.

According to the general perception which this Act takes upon, women are the victims and men are the perpetrators. Because of this situation, some dishonest women have started misusing the act of domestic violence to gain personal benefits from their spouse and her in-laws. Men's organizations such as the Save Indian Family Foundation have opposed the law, arguing that it might be misused by women during disputes.

Renuka Chowdhury, the former Indian Minister for Women and Child Development, agreed in a Hindustan Times article that "an equal gender law would be ideal. But there is simply too much physical evidence to prove that it is mainly the women who suffer at the hands of man."³⁶

Former Attorney General of India Soli Sorabjee has also criticized the broad definition of verbal abuse in the Act.

According to the former President of India, Pratibha Devi Singh Patil, "Another disquieting trend has been that women themselves have not been innocent of abusing women. At times women have played an unsavory, catalytic role in perpetrating violence whether against the daughter-in-law, the mother-in-law or female domestic help. Instances exist whereby protective legal provisions for the benefit of women have been subjected to distortion and misuse to wreak petty vengeance and to settle scores. Some surveys have concluded that 6 to 10 percent of dowry complaints are false and were registered primarily to settle scores. It is unfortunate if laws meant to protect women get abused as instruments of oppression. The bottom-line, therefore, is the fair invocation of legal provisions and their objective and honest implementation."³⁷

There are numbers of cases which prove that there is a misuse of the Domestic Violence Act:

1. In the case of *Major Singh & Anr. v. Sarabjit Kaur*³⁸, the wife filed a false complaint against her husband because she was having an extramarital affair. She tried to threaten her husband but her husband filed for divorce. The judgment passed by the Punjab High Court was that Protection of Women from Domestic Violence Act is being misused to terrorize the spouse, their families and distant relatives and this phenomenon has now acquired the name of 'legal terrorism'.
2. In the case of *Smt. Geetanjali v. Sri B.B. Anantha*³⁹, the wife filed a false complaint against her husband to acquire property from him. The facts of the case

³⁶ Men running scared now Available at: <https://web.archive.org/web/20131010141911/http://www.hindustantimes.com/News-Feed/NM19/Men-running-scared-now/Article1-169172.aspx>, last accessed on August 2023.

³⁷ Protection of Women from Domestic Violence Act, 2005
Available at: https://en.wikipedia.org/wiki/Protection_of_Women_from_Domestic_Violence_Act,_2005, last accessed on August 2023.

³⁸ CRM-M-34824-2015

³⁹ CrI.Misc.No.65/2012

show that the wife was tortured by her husband she didn't get proper treatment but after the investigation, it was found that the case is a false and Metropolitan Magistrate, Bangalore passed the judgment by stating that, it is noted that testimony of the complainant woman throws light on the conduct of the complainant and the extent, to which she has falsified and concocted various allegations and has suppressed important facts in order to harass her husband and parents-in-law and had misused the Protection of Women from Domestic Violence Act 2005 as a tool to extort unjustified money from her husband for unjustified for personal gain.

3. Similarly, in the case of *Balwinder Singh v. Richa Sharma*⁴⁰, the judgment was passed by the Punjab High Court and it was held that it has been observed that the 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 law without any rhyme or reason. The court observed that the notable flaw in this law is that it lends itself to such lazy misuse that women will find it hard to resist 8 of 9 the temptation to teach a lesson to their male relatives and will file frivolous and false cases.

Medical Termination of Pregnancy Act, 1971

This Act accommodated the cessation of specific pregnancies by enrolled medicinal experts and for issues connected with it or supplementary to it. The termination of pregnancy would be allowed in specific cases just according to the prelude which is explained in the Act itself. An enlisted medical expert who has such specialized ability or direction in Gynecology and Obstetrics as might be recommended by tenets made under this Act and who is characterized in Sec.2 (d) of the Act is allowed to direct the termination of pregnancy. Different miscellaneous items matters are associated with this act are assent of termination of pregnancy, the spot where the pregnancy could be ended the ability to make principles and directions in this behalf.

Due to lack of proper legislative means to enable women to clinically abort their fetus conceived illegitimately or under duress or for health concerns for the woman herself, there was a rise in the number of quacks who offered assistance in aborting the foetus thus endangering the life of such women. This Act intended to legalize a female's right to medically terminate her pregnancy based on certain terms and conditions as prescribed under this Act and thus put an end to the menace of increased female mortality caused by illegal abortions.

⁴⁰ CRM M-22267 of 2009 (O/M).

The Indian Penal Code, 1860, vide section 88⁴¹ and 90⁴² provides for punishment to a person who willingly causes an expectant woman to miscarry, if such abortion is not brought about Bonafide for saving the woman's life. The Sanhita also provides for punishment of the woman who causes herself to miscarry.

Misuse of Medical Termination of Pregnancy Act, 1971

The Act can be misused in the following ways:

- The abort unwanted pregnancy the women can cite the reason of contraceptive failure.
- The issue became so severe that the sex-selective abortions started taking place. With the use of Imaging technology like ultrasound with the intention to see the well-being of the fetus and to identify any danger to the lives of mother and child. But the increase in the number of ultrasound clinics and lack of proper regulations the sex-selective abortions (female) increased to such an extent that the sex-ratio declined.

According to census 2011, the abortions happening in a hospital range from 32% in Chhattisgarh to 72% in Assam. To address this issue the Pre-Conception and Pre-Natal Diagnostics Techniques (PCPNDT) Act was introduced to stop illegal use of ultrasound machine to determine sex and close illegal clinics.⁴³

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁴⁴:

This law shields female representative's contrary to sexual misuse at work environment as likewise to prevent and tending to of grievance of such different matters identified with sexual harassment. An occurrence of sexual harassment is in complete defiance of the Fundamental Rights of a female worker under Art14 and 15 of the Constitution neglecting her entitlement to being dealt with similarly as likewise her entitlement to live with dignity accommodated under Article 21. Such episodes additionally undermine her entitlement to a protected domain free from sexual manhandle in order to empower her to uninhibitedly do any business or occupation or exchange or practice any profession.

⁴¹ "Section 88. Causing Miscarriage.—Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Explanation—A woman who causes herself to miscarry, is within the meaning of this section."

⁴² "Section 90. Death caused by act done with intent to cause miscarriage (1) Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. (2) Where the act referred to in sub-section (1) is done without the consent of the woman, shall be punishable either with imprisonment for life, or with the punishment specified in said sub-section. Explanation—It is not essential to this offence that the offender should know that the act is likely to cause death."

⁴³ MTP Act: Key Provisions and Issues Available at: <https://www.gktoday.in/mtp-act-issue-of-pro-life-vs-pro-choice/>, last accessed on August 2023.

⁴⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The safeguard against inappropriate behavior and the privilege to work dignifiedly are all around received standards through global arrangements and agreements like CEDAW – ‘Convention on the Elimination of all Forms of Discrimination against Women’ that the Government of India endorsed on the 25th day of June, 1993.

This administrative material is a way to detail laws to offer impact to the standards for security of ladies against sexual harassment at working environment set down under CEDAW.

A woman who has been a victim of sexual harassment of any degree has to undergo various trials and tribulations. In the early days, the justice system was loaded against the victim of sexual abuse. The indignant medical examination and the terrifying cross-examination by defense lawyers left the victim completely broken and tattered. Fortunately, with time the Legislature as also the Judiciary realised that such cases should be dealt with sensitively. This Act has embodied the guidelines laid down under the Vishakha Judgment to prevent sexual assault of female employees at their place of employment as also the recommendations of the Justice J. S. Verma Committee which worked tirelessly to put together proper measures to ensure justice for victims of sexual abuse. The advent of this law has encouraged more women who had been silently suffering to come forward and complain against sexual harassment⁴⁵.

So far, legislations passed by the Parliament of India in favour of women are commendable, covering all the realms of a human’s life but if a statute is passed to protect certain class of people against some evil or abuse -it may be allowed to inspect retrospectively and prospectively, should not become a medium of oppression of the opposite gender. Remedies and solutions to women who are subjected to violence or such other discrimination are executed well, while leaving men completely out of the scope of any such disparities. Though this effort is praiseworthy but we cannot ignore the fact, that men too can be victims of harassment and prejudice. In earlier days women did not lead with equity in the vast majority of the social orders in India. The greater part of Indian societies and social orders are male centric. At some point until 60s, 70s we could see women languishing a great deal in matrimonial unions over different reasons particularly in financially backward families. There were incidents of violence and bigotry against women however, after years of lawmaking and legal activism crime against women contrasted with past period of 70s and much secured by plenty of legislations. They likewise have better openings for work which causes them turn out to be monetarily free. Nowadays societal orders don't even disapprove of separated women like before as separations. This is how the society is evolving and henceforth the inconsistency in present legal rights of men is at stake.

⁴⁵ Dhvani Mehta, “*The Justice JS Verma Committee report on amendments to criminal law relating to sexual violence in India- preliminary observations*”, published on Jan. 24th 2013.

The Act prescribes that:

The Internal Committee, before initiating an investigation under Section 11 and at the request of the pained woman take steps to reconcile the matter between her and the respondent through conciliation. However, taking into consideration the unequal position of women in society, this provision may be abused. This also violates the mandate that is prescribed by the Supreme Court in Vishakha, which was a guiding force to the State 'to ensure a safe workplace/ educational institution for women'.

Apart from it, according to this Act, it has also been clearly provided that information related to the enquiry cannot be provided under the Right to Information (RTI) and it is the third subject, after the National Nuclear Safety Regulatory Authority Bill and National Sports Development Bill:

where restrictions have been imposed particularly on the RTI. Additionally, though it is made mandatory for the employers by this Act to constitute internal complaints committees for looking into all cases of sexual harassment in the workplace, the Act is faulty as it also envisions a situation in which the offender may be an employer, as in the **Tehelka case** thereby making in almost all cases the autonomous and unprejudiced functioning of the internal complaint's committees impossible.

Frivolous Complaints:

The Act also puts some emphasis on seeking to punish false and malicious complaints along with the new rule that has been framed under this clause stating that the committee that has been formed by an employer on finding the accusation of sexual harassment to be malevolent or based on forged papers can punish the women even with the cessation of their jobs.

Though it is clearly outlined in the Act that simple incapability to authenticate a claim would not be punishable, it has been found out that the existence of this clause along with the latest rule of punishing for false and malicious complaints will inexorably deter the women complainants from filing any complaints as it is sought by the executor to ascertain in almost every complaint that the complaint is bogus and woman may be hounded for her inability to prove their allegations.

Section 14 stipulates to penalize a woman for filing a bogus complaint:

Such a stipulation is a completely insulting provision and is intended to nullify the purpose of the law. However, implementing a restraint does not mean creating antagonistic surroundings which will make every employee anxious about filing a complaint. Employees must be confident to bring into picture everything, which is uncomfortable and disagreeable to them.

The ambition is to avert the exploitation of the provisions designed to guard women at the workplace. This deterrence cannot be made by setting an illustration of someone who was punished for filing a malicious complaint as every employee who files a complaint under this Act is protected by the provision providing for secrecy. First significant instrument here is that of awareness.

The employer needs to generate alertness amongst its employees regarding the penalty of filing a malicious complaint. Employees need to be appropriately trained about the dissimilarity between complaints, which are not proven, and complaints which fall under the class of being malicious. Every instance a complaint is filed/ is about to be filed, the employee needs to be reminded of the cost of filing a malicious complaint. If guidance events (conferences, seminars, awareness programs etc.) are held on the subject of Sexual Harassment, consequences of filing a malicious complaint under the Act also needs to be made clear

Requisites after filing the complaint:

Once a complaint has been filed, it is very significant to not assume maliciousness. If the administration has any intelligence or information that indicate a conspiracy or spiteful intent behind a grievance, it is practical that conciliation be encouraged and appropriately guided. Conciliation should not be suggested or imposed by the organization, but the person who brings the charges should know that she has a right to choose for conciliation. Conciliation is an alternating means of dispute resolution where an effort is made to resolve the dispute without a face off or further hardship.

If the person who filed the complaint indicates a purpose to opt for conciliation, an impartial and experienced conciliator should meet the parties independently in an endeavor to resolve their differences. This procedure needs to be properly monitored in order to diminish the violence of the settlement procedure and extortionist claims. Focal point needs to be on condition that suitable apologies and arriving at an agreement; and not on monetary compensation:

which is in any case barred by law. But if it doesn't work out as intended, one needs to remain for the ICC to submit its Inquiry Report before taking any pace. Due to the character of the work at hand, ICC needs to do its job very well. This is not very simple because it is hard to differentiate a complaint with no virtues with that of a complaint with a malicious intent.

Therefore, it is greatly suggested that the members of ICC are trained about how proof needs to be appreciated and what are the recommendations, which need to be prepared. Evidence, which comprise accounts of behaviour, messages & e-mails, should not be taken out of their framework, but considered contextually. The state of affairs that led to such proof needs to be appreciated and correlated appropriately to the matter at hand so that its context can be comprehended.

The Hindu Marriage Act, 1955

Hindu women are considered as more powerful than women in any other religion. But due to the protection and security given by the legislature they are misusing it. The following provisions under the HMA, 1955 are being misused by her:

1. Misuse of Divorce Provisions (Section 13)

- Some women are alleged to misuse divorce provisions by filing petitions for divorce or judicial separation citing trivial or false allegations (e.g., cruelty) to gain financial or material benefit.

- Courts often observe cases where allegations of mental cruelty are vague or unsubstantiated, yet the litigation is prolonged, increasing pressure on the husband.

2. Unjustified Maintenance Claims (Section 24 and Section 25)

- There are instances where maintenance (monetary support) is claimed without sufficient justification, particularly in cases where the woman is financially independent or capable of self-support.
- Sometimes, maintenance is claimed as a means to exert economic pressure or as a strategic legal tool during divorce.

3. Misuse of Residence Rights (Section 17)

- The Act provides the right for a spouse to reside in the shared household. In some situations, it is alleged that women use this provision to claim exclusive residence rights while denying the husband access, even when unjustified.
- This can lead to family conflicts and misuse of legal protection.

4. False Allegations of Cruelty or Desertion

- Allegations of cruelty or desertion are sometimes filed with malicious intent, as a bargaining tool during divorce or property settlement.
- The burden of proof often becomes a complex issue in court, where repeated accusations create a prolonged legal battle.
- **Section 125 of the Criminal Procedure Code, 1973** is designed to provide a speedy remedy to dependents (wife, children, and parents) who are unable to maintain themselves.
- It empowers magistrates to order maintenance to a wife, minor children, or parents who are unable to maintain themselves, even in cases where no formal marriage relationship exists.
- The provision is meant to prevent destitution and vagrancy, particularly for vulnerable individuals.

Section 125 of Cr.PC⁴⁶

Section 125 of the Criminal Procedure Code, 1973 is designed to provide a speedy remedy to dependents (wife, children, and parents) who are unable to maintain themselves. It empowers magistrates to order maintenance to a wife, minor children, or parents who are unable to maintain themselves, even in cases where no formal marriage relationship exists. The provision is meant to prevent destitution and vagrancy, particularly for vulnerable individuals.

1. Unjustified or Excessive Maintenance Claims

- Some women are alleged to file maintenance cases claiming large amounts without proper justification of their actual needs or expenses.
- In certain cases, women who are financially capable or earning their own livelihood still seek maintenance, despite having the ability to support themselves.

⁴⁶ Section 144 of BNSS, 2023

1. Strategic Use of Maintenance to Pressure the Husband

- Section 125 is sometimes used as a legal strategy in matrimonial disputes to exert financial pressure on the husband during separation or divorce proceedings.
- This may prolong litigation, coercing the husband to settle disputes out of fear of long-term maintenance liability.

3. Filing Cases Despite Lack of Marriage or Valid Relationship

- Although Section 125 applies to wives (whether legally married or living in a relationship resembling marriage), some cases are filed without clear proof of marriage or valid cohabitation.
- This leads to disputes over the legitimacy of maintenance claims, burdening the judicial system.

4. Multiple Maintenance Claims

- Allegations have surfaced where women file maintenance claims simultaneously under multiple laws—such as Section 125 Cr.PC, Domestic Violence Act, and Hindu Adoption & Maintenance Act—creating overlapping or redundant claims.

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