

Committee on Petitions

Petition praying for amendments in Section 498A of IPC.

The Committee on Petitions of the Rajya Sabha, under the Chairmanship of **Shri Bhagat Singh Koshyari, Member, Rajya Sabha**, is considering a petition praying for amendments in Section 498A of Indian Penal Code, 1860. The petitioner in his petition has pointed out the extensive abuse and misuse of this provision of the Penal Code. According to the petitioner, the abused population undergoes tremendous harassment and torture. As these provisions of the penal code presently go, a complaint without much authenticity or any weight of evidence is enough to arrest the husband or the in-laws or anyone else named in the complaint, irrespective of whether any crime has taken place or not. The petitioner, accordingly, has prayed for suitable modification in section 498A of Penal Code so as to check its abuse and protect the interest of innocent persons.

2. The petition is available on the Rajya Sabha's website (www.rajyasabha.nic.in) under the link: *Committees* → *Standing Committees* → *Committee on Petitions* → *Petitions with the Committee*.

3. The Committee has decided to undertake consultations with a wide cross-section of the society and invites written memoranda thereon. Those desirous of submitting memoranda to the Committee may send two copies (each in English and Hindi) thereof to **Shri Rakesh Naithani, Joint Director, Rajya Sabha Secretariat, Parliament House Annexe, New Delhi – 110 001 (Tel: 011-23035433(O), 23794328 (Telefax) and E-mail: rsc2pet@sansad.nic.in)** latest by 30th December, 2010.

4. Comments/suggestions, etc. submitted to the Committee would form part of its record and would be treated as confidential. Any violation in this regard may attract breach of privilege of the Committee.

5. Those who are willing to appear before the Committee besides submitting written comments/suggestions may indicate so. However, the Committee's decision in this regard shall be final.

To:

The Council of States (Rajya Sabha)

The petition of Dr. Anupama Singh praying for amendments in Section 498A of Indian Penal Code, 1860.

Sheweth,

1. That Section 498A was inserted in Indian Penal Code in 1983 to protect married Indian women from cruelty, including dowry harassment. The offence under this section is cognizable, non-bailable, non-compoundable with provision to lodge a complaint against the husband or any relative of the husband of the women. The section reads as hereunder:-

“Whoever, being the husband or the relative of the husband of a woman, subjects such women to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

2. That Section 498A of Indian Penal Code is being fearlessly abused and misused by a large section of unscrupulous people, who are using law as a weapon for ulterior motives.
3. That the abused population is undergoing tremendous harassment and torture, which includes atrocities inflicted on senior citizens, children, women (including pregnant women) and men.
4. That there is an urgent need to address the issue of abuse of this law as *inter alia* the ramifications of its abuse are far more damaging than the law makers had ever conceived:
 - (a) This law is being misused rampantly by unprincipled people. And given the time tested benefits it has reaped for them, its abuse is now widespread. Infact the gravity of the situation can be assessed from the fact that there are several cases of dowry death wherein the supposedly ‘dead victims’ have come back alive, and several cases where the same women has repeatedly alleged charges under this law in each of her repeat marriages;
 - (b) This law is being misused by women to enable a get-rich-quick-scheme to extort large amounts of money from innocent families. Women, their parents and instigators have used this law to extend threats and hold

innocent families to ransom, thereby pressurizing them to accede to unjustified demands;

- (c) This law is being misused by women to alienate the husband from his parents and siblings, so as to gain control over his finances and social behavior including his lifestyle. Growing instances of abusive behaviors towards elderlies in families, including parents and senior citizens, are another ramification of its abuse;
- (d) This law is also rampantly misused by those brides and her parents who conceal true facts about her mental health and educational level at the time of marriage, thereby adopting fraudulent means to forge the alliance. When these facts are unearthed by the groom and his family, the bride and her family prefer to take recourse to Section 498A of IPC.
- (e) This law is being misused as a bargaining tool by those women who indulge in Adultery. When their nefarious acts are exposed they take recourse to misusing this law, thereby deflecting the needle of crime on innocent husband and his family. This law being an exception in Criminal Law presumes the accused as guilty until proven innocent; hence the women's word is taken as a gospel of truth. And therefrom begins the saga of unending trials, tribulations and destruction for an innocent man and his family;
- (f) The law is being misused to enable divorce so as to revive any pre-marital relationship that the wife may have had as she may have unwillingly given her consent for marriage to satisfy her parents;
- (g) The law is being misused to deny custody of child/children to the father and his family. Infact several cases abound where children have been wrongfully deprived of fatherly care and affection through such indiscriminate, rampant misuse of this law;
- (h) This law is being misused to inflict sufferings on husband and his family to settle scores and to wreak vengeance, thereby posing a grave threat to the very existence of a peaceful family unit in society. Law is to protect, not to destruct. Law is as much for protecting the innocent as it is to punish the guilty; and
- (i) The language, content and structure of this law has enabled implication of thousands of innocent families in false cases. A complaint, without any authenticity and without any weight of evidence, is enough to arrest the husband, in-laws and anyone else name in the complaint,

irrespective of whether a crime occurred or not. This has led to arrest of lakhs innocent citizens (thousands of families), with many committing suicide as they are unable to bear the indelible stigma on their honor and reputation.

5. That the following statistics corroborate the above contention of the petitioner:

5,01,020 people arrested under Section 498A of IPC;
2,94,147 people completed trial under Section 498A of IPC; and
58,842 people convicted (*out of his many must have appealed to higher courts*)

Source: NCRB (2003-2006), Ministry of Home Affairs, Government of India.

6. That misuse of Section 498A of IPC has been acknowledged/**condemned** by leading authorities;

- (a) The **Supreme Court of India** in *Sushil Kumar Sharma vs. U.O.I (2005)* said that any misuse of this provision of law amounts to unleashing **Legal Terrorism**. It acknowledged that there are growing instances of women filing false charge.
- (b) The World Health Organization (**WHO**), in its Report of India clearly cited Section 498A as one of the major reasons for growing **Elder Abuse in India**.
- (c) The **Law Commission** in its 154th Report, the **Malimath Committee Report** (on Reforms of Criminal Justice System, 2003) and the 111th Report of the **Parliamentary Standing Committee** on Home Affairs, have all acknowledged that Section 498A is being widely misused;
- (d) The **Center for Social Research** (India), in a study on implications of Section 498A IPC state that “educated and independent minded women misuse the section”.

7. That there is no remedy/provision in this law:

- (a) for punishment to people who misuse and abuse this law;
- (b) for people who are proved innocent after being falsely implicated under this law;

- (c) for the indelible stigma that falsely accused people are forced to live with for the rest of their lives;
- (d) for the immense financial, social and personal loss borne by the falsely accused;
- (e) for resurrecting the lives of falsely accused and maligned people;
- (f) for discouraging people from filing false cases.
- (g) for punishment to guilty and corrupt law enforcement agencies who connive and collude with complainants to harass and torture and falsely accused;
- (h) for preventing the media from maligning and defaming the falsely accused innocents; and
- (i) for citizens to file complaints against women who inflict cruelties and atrocities on them and their family members.

8. That the Supreme Court of India in *Sushil Kumar Sharma vs. U.O.I & others* (JT 2005 (6) SC 266) clearly said that it is for the legislature to find ways on how to deal with misuses of this law as well as on how to wipe out the ignominies suffered during and after the trial by the falsely accused.

9. That the petitioner therefore prays for remedy to mitigate the sufferings of lakhs of Indian citizens, who through this law, have been unceremoniously exposed to the whims and fancies of corrupt, immoral unprincipled section of society, who for their own personal agendas do not hesitate in committing the worst possible crime under law, which is **Misuse of Law**. It is therefore prayed:

- (a) that Section 498A be suitably amended so as to make itailable, non-cognizable, and compoundable;
- (b) that suitable provisions be specifically inserted in Section 498A so as to make it punishable for whosoever misuses of abuses it;
- (c) that the misuser of this law should be made liable to compensate the financial loss suffered by the falsely accused in the process;
- (d) that the law be made gender neutrall of protect the interests of any innocent, be it a man or a women; and

(e) that time bound trial should be make a statutory requirement under this law, with a 6 month maximum limit specified therein.

Name of Petitioner	Signature
Dr. Anupama Singh	Sd/-