

CRUELTY AGAINST WOMEN:
PERILS OF A PROMISING LAW

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ABSTRACT

We honor the institution of marriage as a sacred union of man and woman who fulfill three important aims of life i.e., dharma (duty), rati (sensual pleasure) and praja (progeny). Seldom we put light into the dark side of marital relations where the weaker members, especially the wives being subjected to cruel treatment by their husband or male head of the family. To safeguard women from marital violence, especially cruelty, S.498A was brought into life. However, there are loopholes that have hindered the efficiency of the law. Many women are unaware of their rights and those who know are ashamed to admit. Number of cases reported against the reality of the situation exemplifies the underreporting of the cases. Why is no one raising question on that? Isn't it as much grievous as other crimes against women? The article puts light on such questionable behaviour which is normally condoned, aiming to create more awareness among the general public and contribute to making the law an effective one.

KEYWORDS: cruelty, mental cruelty, marriage, problems, women.

INTRODUCTION

In our society, we have often brushed aside the experiences of women in marital fold as ordinary and not so uncommon acts. How many times have we tried to analyze the experiences on a firsthand basis to realize that these acts are against the law and morals of the society? Act of sexual abuse towards the wife as a form of punishment, giving cold shoulder and avoiding company of the spouse, breaking bones to teach discipline, punishing for talking back at the husband or the elders at home are some common examples that we choose to overshadow. Isn't the very act of ignorance amounting to cruelty?

Matrimonial relationships deal with emotional sensitivity, which demand trust, regard, love respect and affection with mutual understanding of adjustment.¹ With the establishment of marriage, a new phase of life begins with a continuation of the family through procreation. Besides our Hindu shastric culture didn't facilitate marriage with judicial separation or divorce as marriage is supposed to be a union for a lifetime with a possible objective to punish the wife for the misdeeds.² The institution was gender biased and expected wives to be

¹ Avinash Gadhre, *CRUELTY-AS A GROUND FOR DIVORCE*, LEGAL SERVICES INDIA, <http://www.legalservicesindia.com/article/1900/Cruelty---as-a-ground-for-Divorce.html>.

² Harinder Boparai, *the expansion of marital cruelty*, ILI, 34, 34 (1981).

submissive to every other act of husband, worshipping them as ‘parmeshwar’ irrespective of their loose character, impotent or cruel behaviour.³

In this patriarchy, women had witnessed many forms of matrimonial cruelty, which they aren't aware of in the first place. Even if some of them are aware, they are ashamed to act against it. This is because act of cruelty may be both covert and/or overt act by way of gestures, words or through mere silence, violent or non-violent act. Where do you draw the line between subtle and brutal cruelty? What is the saturation point that makes it impossible for spouses to live with each other anymore? What kind of acts construe mental cruelty?

Unfortunately, there is no well-defined meaning of cruelty, as agreed by the Report of the Special Joint Committee of the Senate and House of Commons, who conveyed that a comprehensive and absolutely satisfying definition of marital cruelty isn't possible as the ethical conduct within the four walls of a marital household varies from one to another, with difference in time, community, place and kind of society the couple reside in.⁴

Keeping aside the previous customary beliefs, women are responding against matrimonial cruelty, but in staggering numbers. As per the National Crime Records Bureau Report, 2016, out of 4,77,986 pending cases in the start of 2013, only 46,217 cases were decided, 6559 were convicted while 39,658 were acquitted and 10,318 were withdrawn, conviction rate of cases under section 498A stooped low to 14.2%.⁵

BACKGROUND

Speaking of ancient times, women in India have always been considered as a symbol of “power”. In Vedic era, women and men were on equal footing on many aspects. As per Vedic scripture women's had full right over the properties, took part in social and religious practices equally. There happened to be no seclusion of women in India during ancient times, then where exactly did we go wrong?

During 20th century prior independence, women had been continuously oppressed by men in all aspects, whether is physical or mental, political, personal, public or private. Due to prevalent practice of *sati* or bondage labor and living a miserable life as widow, women

³ Avinash Kumar, *CRUELTY AS A GROUND FOR DIVORCE IN HINDU SOCIETY*, MANUPATRA, 1, 3.

⁴ *Supra* note 2 at 41.

⁵ Divansh Hanu Rathi, *CRUELTY IN MARRIAGE: ANALYSIS OF SUPREME COURT CASES ON SECTION 498A*, latest laws, 1, 1.

suffered a lot. Agreeably, a lot has changed due to civilization and liberalization of ideas, where we don't witness sati or extreme forms of violence around us. It, however, doesn't change the fact that women are still at the mercy of their in-laws, for they have been taught to submit all of themselves to their marital family, especially their husbands. Adding the fact that India has a sex ratio inclined towards men, patriarchal society never left a chance to suppress women after marriage. Cruelty by husband and his family, death due to dowry and many endless brutalities have been painted on to the lives of such women.

Most of the enacted laws in India today had been drafted by Britishers. All these outdated laws provided little to no protection for women, and had no specific provisions to tackle Indian problems, so there was urgent need to amend such sections. Moreover, seeing the rapid increase in number of marital cruelty, dowry deaths, domestic violence against women by her in-laws and husband Section 498A of IPC was introduced through 2nd Criminal Law Act on 12th December 1993 and made it cognizable, non-compoundable, non-bailable offence.

SECTION 304B AND 498A OF IPC

After the introduction on section 498A it was closely followed by Section 304B which defined the special offence of dowry-related death of a woman in 1986 the related amendments in the Indian Evidence Act 1872. Section 498A and section 304B were introduced to complement each other since Section 304B concentrated on the particular offence of dowry death and S.498A sought to address the wide-scale violence against married women.⁶ These provisions intend to protect a married woman from being a victim of the greed in the marital household.

Section 304B and 498A of IPC are not inclusive but two distinctive offences. Cruelty is a common offence under both the sections. A person acquitted for the offence of dowry death can also be convicted under offence under section 498A of IPC.⁷

WHAT IS CRUELTY?

⁶ Indira Jaising, 'Laws for the Daughter-in-Law', The Indian Express, (October 8, 2003).

⁷Kaliyaperumal vs. State of Tamil Nadu (2004) 9 SCC 157.

As it was introduced above that it's impossible to articulate definition of cruelty, it could be understood that its generally, it is any act which is likely to compel the woman to commit suicide or to cause grave injury or danger to life. Women being subjected to different forms of violence like sexual, physical, mental, psychological, emotional, financial, require the ambit of cruelty to be wide and inclusive of these forms of violence inflicted upon them.

Cruelty is a cognizable offence if information concerning the commission of the offence is furnished to an officer in charge of the police station by the person aggrieved by the offence or by any person related to her by blood, adoption or marriage, or, if there is no such relative, by any public servant belonging to such class or category as may be notified by the state government in this behalf.⁸

This expression 'cruelty' has been described in wide terms so as to include inflicted physical or mental harm to the body or health of the woman and indulging in acts of harassment with a view to compel her or her relations to meet any unlawful demand for any property or valuable security, including the harassment for dowry.⁹ Also, in the case of '**Inder Raj Malik vs. Sunita Malik**'¹⁰, it was held that the word 'cruelty' is defined under *inter alia* which says. to meet any unlawful demand for any property or security, if a woman is harassed and being coerced or any related person to her is being coerced is a kind of cruelty covered under this section.

JUDICIAL INTERPRETATION

Due to the wide and ambiguous nature of the section, courts have interpreted cruelty with regards to the prevailing circumstances, where possible evidence of cruelty could be accrued.

In the case of **Noorjahan v. State**¹¹, supreme court attempted to explain the necessity of the ambit of 'cruelty' as the consequences of cruelty are likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical, if it isn't established and put into action.

⁸ The Indian Penal Code (45 of 1860) S.498A.

⁹ Section 498A IPC, Report no.243, LAW COMMISSION OF INDIA, GOVERNMENT OF INDIA,4. <https://lawcommissionofindia.nic.in/reports/report243.pdf>.

¹⁰ Inder Raj Malik vs. Sunita Malik (1986) 92 CRLJ 1510.

¹¹ (2008) 11 SCC 55.

Cruelty is the very antithesis of love and affection and what may be cruelty in one situation might not be treated as cruelty in other situations. It all depends on the social, economic and educational background of both the parties and also on the level of their tolerance. If observed, one would find ego based fights frequent amongst educated and urban families and less in poor and illiterate strata of the society whereas in latter category, economical factors may be mainly responsible to cause marital disharmony. Yet, irrespective of the social, educational and economic background of parties, no one would tolerate an attack on their chastity or moral character.¹²

Cruelty has to be measured by its effect upon the particular person complaining of the act. cruelty is very relative, what may be cruel to one may be a very simple laughable act for other person, depending upon the factual matrix of the case.¹³

Married life has to be examined overall and not assessed in parts which are sought after. The ill behaviour must be persistent for a fairly lengthy period where the relationship has deteriorated to a level beyond repair. Not just trivial matters, but sustained untenable and reprehensible conduct affecting physical and mental health of the other spouse may lead to mental cruelty.¹⁴

The position of law in this regard has come to understand and declare that levelling disgusting accusations of unchastely and indecent familiarity with a person outside wedlock and allegations of extra marital relationship is a serious assault on the character, honour, reputation, status as well as the health of the wife. If an educated woman, especially is subjected to such aspersions of perfidiousness, while being judged by Indian conditions and standards, it would amount to worst form of insult and cruelty, enough to substantiate and warrant the claims of cruelty.

FORMS OF CRUELTY

Cruelty is a feeling which one party undergoes due to the conduct of another, which may consist of physical as well as mental torture.¹⁵ Cruelty may be in the form of physical, mental

¹² Hemwanti Tripathi vs. Harish Narain Tripathi MANU/DE/3451/2011.

¹³ N.G. Dastane vs. S. Dastane(1975) 3 SCR 967.

¹⁴ Gurbux Singh v. Harminder Kaur AIR (2011) SC 114.

¹⁵ Madhavi Ramesh Dudani vs. Ramesh K. Dudani (BOMHC) MANU/MH/0954/2005.

or corporeal. In physical cruelty, it is easier to derive tangible and direct evidence, which isn't possible in the case of mental cruelty.¹⁶ External injuries inflicted through beatings, slapping, pushing, burning with cigarettes are some examples of cruelty which can also be part of domestic violence.

To constitute cruelty, offence need not be physical. even mental torture or abnormal behaviour may amount to cruelty and harassment.¹⁷ Harassing with the intention to coerce her into meeting unlawful demands for any property or valuable security would also constitute cruelty.¹⁸ there must be such wilful treatment of the party which caused suffering in body or mind either as an actual fact or by way of apprehension in such a manner as to render to continued living together of spouses harmful or injurious having regard to circumstance of the case. Cruelty is a course of conduct and one which is adversely affecting the other.¹⁹

MENTAL CRUELTY

Mental cruelty is the act of being cruel, disposition of inflicting pain; delight in or indifference to other's pain; mercilessness; hard heartedness.²⁰ Not just numerical counts of incidents or continuity of such conduct, but also the intensity, gravity and stigmatic impact of the incidents and its damaging consequences on mental health would be taken into consideration. If the taunts, teasing or belittlement are of ordinary nature, the courts need to contemplate whether persistence of the same behaviour would render it so injurious and painful that the maintenance of matrimonial homes isn't possible for any longer.²¹

In **Samar Ghosh v. Jaya Ghosh**²², the Hon'ble Supreme Court had given a treatise on the subject, framing circumstances and broad considerations which may be relevant in dealing with cases of mental cruelty, some of which are mentioned below:

1. Consideration of matrimonial life, factual matrix, acute mental pain and agony which couldn't be reasonably asked to put up with anymore.

¹⁶ Jayachandra v Aneel kaur (2005) 2 SCC 22.

¹⁷ Gananath Pattnaik v. State of Orissa, (2002) 2 SCC 619,621.

¹⁸ Shobha Rani v. Medhukar Reddi, (1988) 1 SCC 105.

¹⁹ Vinita Saxena v. Pankaj Pandit, AIR (2006) SC 1662.

²⁰ P RAMANATH AIYAR'S, CONCISE LAW DICTIONARY, 6th edition.

²¹ Jayna Kothari, *CRIMINAL LAW ON DOMESTIC VIOLENCE PROMISES AND LIMITS*, 40, Eco. & pol. weekly, 4843, 4845 (12-18 November 2005).

²² Samar Ghosh v. Jaya Ghosh (2007) DMC 1 597 SC.

2. Not plain coldness but prolonged feelings of deep anguish, disappointment and frustration in the minds of victim caused by the rudeness, indifference, neglecting behavior and petulance of manners can amount to cruelty.
3. Treatment complained of to be abusive and humiliating nature and the consequence of such treatment must be very grave and weighty.
4. Emotional upset out of jealousy, possessiveness, selfishness may not be a ground but the frequent wrongful conduct, studied neglect or total departure from normal standard of conjugal kindness may be a ground for the same. It also includes refusal of either parties to intercourse for a considerable period without reasonable grounds.
5. Operation of sterilization by the husband without medical reasons and without prior knowledge and consent of wife or abortion and vasectomy by wife without medical reasons and consent of the husband may lead to mental cruelty.
6. Unilateral decision to not to bear a child from the marriage may be a ground.
7. Long period of separation such that matrimonial bond is irreparable but the relation not being severed in account of legal ties, may amount to cruelty.

ESSENTIALS OF CRUELTY

To accuse someone of cruelty, there are certain requirements that has to be met, which are provided in the penal law of the country.

1. Husband or relative of the husband:

‘Relative’ as expressed in the statute has to be interpreted in the ordinary sense. It can refer to any member of the family who are related by blood and marriage.²³ Usually, it will include husband or wife, son, daughter, brother, sister, father, mother, nephew, niece, grandson or granddaughter of an individual or the spouse of any person.²⁴

2. Wilful conduct:

Wilful act means knowingly intentional, calculated, conscious and deliberate act with full knowledge of consequences flowing therefrom. The act has to be carried forward with a ‘bad purpose or without justifiable excuse or stubbornly, obstinately, or perversely.’²⁵ to attract the section of cruelty, there must be wilful conduct by the accused on the victim which is likely

²³ Vijeta Gajra v. State of NCT of Delhi (2010) 11 SCC 618.

²⁴ U. Suvetha v. State by Inspector of Police and Anr. (2009) 6 SCC 787.

²⁵ Ram Kishan v. Tarun Bajaj, (2014) 16 SCC 204.

to impel the woman to commit suicide or cause grave injury or danger to her life, limb or health.²⁶

3. Injury to health:

The injury should be of such nature to push the matrimonial life in a state beyond repairable. Referring to the observations laid out in the case of *Jamieson v Jamieson*, by Lord Merriman, it could be deciphered that the offence of cruelty comprises two elements: firstly, the abusive behaviour complained of and secondly the resulting consequence of the apprehension. We have to consider the conduct of the accused complained of as well as its effect on the victim.²⁷

4. Harassment:

In ordinary sense, it means to torment a person subjecting him or her through constant interference or intimidation. To constitute this harassment, it is significant to prove that (1) the woman was anguished i.e., tortured either physically or mentally through constant interference or intimidation, and (2) such act was with a view to influence or compel her to do something which she legally or otherwise not expected to do by using force or threats and (3) intention to compel or force her or her relatives to fulfil unlawful demands for any property or valuable security.²⁸

WHO CAN SEEK REDRESSAL?

The offence is designed to prevent married women and can be only used against husband and relatives. However, it allowed the 'second wife' to frame charges of cruelty, even though second marriages are void in Hindu law. Supreme Court, in the case of **Reema Aggarwal v Anupam** observed that '..There could be no impediment in law to liberally construe the words or expressions relating to the persons committing the offence so as to rope in not only those validly married but also anyone who has undergone some or other form of marriage and thereby assumed for himself the position of husband to live, cohabit and exercise authority as such husband over another woman'.²⁹

²⁶ Wasim v. State (NCT of Delhi) (2018) SCC Online Del 9147.

²⁷ *Jamieson v. Jamieson* [1952] A.C. 525.

²⁸ *Savitri Devi v. Ramesh Chand* (2003) CriLJ 2759.

²⁹ AIR (2004) SC 1418.

Second wife, whose status isn't legal in the eyes of a law, can be regarded as the relative of the husband for the purpose of S.498A. Consequently, she can also be held liable for cruelty against the first lawful wife of her alleged husband.³⁰

Not only the victim woman can complain, but also the relatives on behalf of her can complain against the accused and it will be maintainable.³¹ National Commission for Women (NCW) also has the locus standi to maintain curative petition before the Supreme Court in respect of proceedings in relation to this section, as NCW is delegated with the responsibility to take up cases wherein women's rights are violated.

SIGNIFICANT PROBLEMS OF S498A

Like any other law, S498A also contains loopholes which delays justice for some, while denies others. Some of them are mentioned below:

1. UNDERREPORTING

You might find this funny and unreal but, a woman, in this patriarchal society irrespective of the modernity, is considered to be a commodity which is to be disposed off by her parents as early as possible, transferred from her parents to her husband, which gives the husband the sole ownership to do anything to her and any interference by outsiders isn't deemed acceptable. The patriarchal nature of families inhibits women to household duties and exerts family control over arranged marriage decisions and women's sexuality.

There is '**culture of silence**' associated with violence within the household, which results in apathetic insensitive criminal justice system response. Victims revisit the trauma all over again and are intensified through sociocultural practices and interactions with various institutions and agencies of the society. Adding to the misery, the victims are surrounded with stigma and shame before even raising voices.

The confines of a household make the matters private where members are socialised to keep the private matters to themselves to hold the dignity and honour of the family. In India, notions of shame, modesty and honour remain the dominant concepts in public discourse for

³⁰ John Idiculla and Ors. vs. State of Kerala and Ors. (2005) CriLJ 2935.

³¹ Any relative of victim woman can file complaint against cruelty and dowry harassment under Section 498A: SC, ZEE NEWS, (May 1, 2019, 12:22PM) <https://zeenews.india.com/india/any-relative-of-victim-woman-can-file-complaint-against-cruelty-and-dowry-harassment-under-section-498a-sc-2200104.html>.

justification of sexual assault on women.³² If any question of violence is ever raised within the home, no outsider is interested nor permitted to meddle into their business.

In a report from Criminal Records Bureau (CRB) ,2013, it was found that 4,66079 cases were pending, out of which only 7,258 were convicted and 38,165 were acquitted and 8,218 were withdrawn. The significant observation to make here is the low conviction rate. Traditional culture, rape myths, male dominance, conservative attitudes, pressure from family to take the case back, society's judgement are some factors that contribute to the under reporting. Battered women dwell in a society which condones violence due to active reassurance or tacit approval by the husband's family members. In many cases, the women accused the husband as well as the mothers-in-law, which imply that women have no immediate social support, as they continue to bear marital violence from multiple perpetrators in the household.³³

it is comprehended that while many women experienced some form of violence, half of them failed to acknowledge their experience as abuse and rest half sought for help. Women who have experienced one form of abuse are more likely to experience others as well. Women from poor economical background remained silent in fear of deprivation and starvation of themselves as well as their children. Whereas women from higher caste, well-off families are hesitant to discuss violence and family dynamics,³⁴ the less privileged are prone to physical violence, higher class educated women are susceptible to coercive sexual relations by their husbands.

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2. AMBIGUOUS DEFINITION:

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In **Shobha Rani v. Medhukar Reddi**, the Supreme Court observed that under Section 498A of IPC a new dimension had been provided to the concept of cruelty and came up with the definition of 'cruelty' which necessitates the evidence against the harassment to the wife to meet any unlawful demand for money to constitute cruelty in criminal jurisprudence.³⁵

It can be understood from the context of Hindu Marriage Act sec 13(1) (i-a) that intention is not a necessary constituent in cruelty. It meant that cruelty doesn't need to be intentional,

³² Verma, Seth and Subramaniam, 2013, 14, retrieved from Aaron Karp, Sonal Marwah and Rita Manchanda, UNHEARD AND UNCOUNTED: VIOLENCE AGAINST WOMEN IN INDIA, (2015)1, 5.

³³ Meghna Bhat and Sarah E Ullman, EXAMINING MARITAL VIOLENCE IN INDIA, 15, SAGE, (2014), 57, 66.

³⁴ *Supra* note 33 at 61.

³⁵ (1988)SCR 1 1010.

wilful or deliberate. Intention from matrimonial side doesn't need to be proved. This further made the definition of cruelty very vague as it doesn't include many other types of violence faced by the women within her home. Women experience violence inside the home in varied structures what's more, not just physical or mental mistreatment.

Women's genuine encounters show that they confront atrocities in forms of physical, verbal, psychological, mental, sexual and economic violence. One of the frequently observed stereotype is that rape can't happen to married couple and often the traumatic and psychological consequences on the victim is trivialized by the society. Sexual violence especially should be perceived as a form of cruelty not only to curb down high prevalence but also provide protection from marital rape which is yet to be criminalized in our country.

3. PROVING CRUELTY 'BEYOND REASONABLE DOUBT'

While making amendment, when 'Cruelty' was added in S.498A, court regarded that acts of mental harassment, verbal harassment, taunts and complaint all were considered act under 'cruelty'. Later on, it posed as a demerit for the victim. It became one of the significant problems for survivors of domestic violence, activists and lawyers because of the inability of the prosecution to prove the same.

Although definition of cruelty is similar in both criminal and civil cases of violence against women, but the requirement of prove the same is different in both. In S.498-A it is required from the prosecution to prove the cruelty of husband and his relatives 'beyond the reasonable doubt'. Proving the guilt through evidences should be so clear that it could be accepted as a fact by any rational person.

Let's take the example of physical cruelty in **Arvind vs State of Bihar**³⁶. In the following case the victim was ablaze to death by her husband and in-laws. She made a dying statement to her mother that her husband and in-laws emptied kerosene on her and set it on fire. The statement was given by her mother in the court as evidence but Supreme court rejected the dying declaration and observed that there was no evidence of cruelty with her beforehand. Moreover, her mother can't be a witness and her evidence can't be counted upon because she is an interested witness and derived to conclusion that there was no sufficient evidence to prove the charge of cruelty.

³⁶ Arvind vs State of Bihar (2001) 6 SCC 407.

Similar case is also observed in mental cruelty. In **Gananath Pattnaik vs State of Orissa**³⁷ the only hearsay evidence court had was testimony of sister of the dead victim, who stated that her sister used to complained about the cruelty, assault and harassment she encountered in her matrimonial home by husbands and in-laws. She also claimed that child of the victim was taken away from her and she was often tormented and several demands of dowry were made from her. However apex court didn't take her testimony into consideration and held that her statement is not legally permissible as evidence to prove cruelty against the accused. Only if it was cause of her death, only then it was permissible not otherwise.

such requirements to prove mental and physical cruelty beyond reasonable doubt that happened inside the confines of home is very difficult resulting in acquittal of the accused.

4. PROTECTION ONLY FOR MARRIED WOMEN

Unlike the PWDVA, which includes any woman in the domestic sphere in the ambit of the said act, S498A only includes married women. Section 498A is exhaustive and should apply to women beyond the marital boundaries as domestic violence isn't limited to only married women, but many other members of the family. For example, children, widow, single mothers, are also prone to cruel behaviours by other members who are in a superior position. The definition hasn't taken this into consideration that unmarried women, children who also face violence in the same sphere, irrespective of male and female.

5. FALSE ACQUISITION: A DANGEROUS MYTH

There is a massive outrage against the IPC sec 498-A by a huge chunk of people demanding to remove the section as constantly being misused by the women. No doubt, there are women who put forward frivolous allegation against their husband and family to condemn their reputation in the society or stay away from them, which is a clear exploitation of such provisions and hampers health of society at large.³⁸ In a recent judgement, the Supreme Court directed on setting up of Family Welfare Committees in every district of the country hitting as a death blow to the heavily diluted law.

³⁷ Gananath Pattnaik vs State of Orissa (2002) 2 SCC 619.

³⁸ Savitri Devi v Ramesh Chand & Ors II (2003) DMC 328.

Men's right activist groups targeted it and complained of misuse of such law against their husbands, articulated with lower rate of convictions, higher number of suicides among men. However, they failed to correlate conviction rate with the amount of misuse as there is no evidence to substantiate it. Factors such as higher rate of acquittal, inadequate investigation, lack of evidence, benefit of doubt against the accused and underreporting.

The myth of misuse doesn't overshadow the reality and the grievous nature of the crime. The women misusing the laws are basically the one who are well off and are privileged enough to know that such women protecting laws exist. Whereas there still exist women who are still unaware of the rights they have.

Legal mechanisms favoring women are always under scrutiny and apprehension of misuse, irrespective of the lack of evidence to corroborate it.³⁹ If proper investigation and inquiry by the respective authorities, is carried out, it could prevent arbitrary and unnecessary arrests and further deterioration of reputation of respective families.

6. APPROACH OF POLICE AUTHORITIES

Police authorities, in general are left with the discretion to assess whether the alleged acts of domestic violence amount to cruelty or not.⁴⁰ Most women aren't aware that their complaint has to be lodged in the police station, u/s.154Cr.P.C. Information regarding the commission of offence is needed to be written down, entered in the case diary and also provided with a free copy of the same. Using this unawareness to their advantage, police authorities threaten and send the victim back to the violent home. If these women insist on registering the case, the officials sought to active manipulation to conceal the crime and protect the offender.⁴¹

RECOMMENDATIONS

Law and morals of the society are ought to be in balance with each other. Both men and women should understand each other to curb down crimes against women, especially cruelty.

³⁹Flavia Agnes, *PROTECTIVE LEGISLATIONS: MYTH OF MISUSE*,30,Eco. & Pol. Weekly, 865, 865 (April 22, 1995).

⁴⁰ Jayna Kothari, *CRIMINAL LAW ON DOMESTIC VIOLENCE PROMISES AND LIMITS*, EAPW, 40, pp.4843-4849, 4845 (12-18 November 2005).

⁴¹ Saumya Ray, *LEGAL CONSTRUCTIONS OF DOMESTIC VIOLENCE*,55, SAGE, 427, 434, (2006).

The aim shouldn't be to impose deterrent effect but to rehabilitate instead of seeking retribution.

1. AWARENESS

Legal remedies are present to combat the persisting cases, but not many are aware of their remedies. Once they are made aware of it, it provides them with internal strength to stand up against it. Along with it, they need to be assured that they aren't putting dignity of their family in jeopardy, nor is it a shameful act. There is need of improvement in quality of education and employment opportunities in order to create a positive and healthy life for both men and women. From the early childhood, children should be infused with good moral and religious values to respect each other.⁴²

2. LEGAL REFORM

Legal solutions are present as we discussed before, but are they enough? Certainly a lot needs to be reviewed and implemented. Judicial interpretation needs to look the society beyond the patriarchal dominance and provide justice to the ones treated unfairly. According to the Law commission report 243, there must be expeditious disposal of cases under section 498A.⁴³ There must be well trained police officers to address such situations sensitively, file the complaint and take necessary recourse to seek justice instead of driving away the victim to return to the lion's den.

3. MENTAL HEALTH

The survivors of victim have to be approached by organizations sensitively taking into consideration about triggering of their traumatic experiences. These conduct can prevent from mental health issues of such victims. They must be provided with medical attention, housing, counselling services, crisis centres and proper support for those who are unable to fend for themselves or economically backward.⁴⁴

4. RESEARCH

⁴²Indira Sharma, VIOLENCE AGAINST WOMEN: WHERE ARE THE SOLUTIONS? ,57, INDIAN JOURNAL PSYCHIATRY, 131 (2015).

⁴³Saif Rasul Khan, SECTION 498A: SWINGING BETWEEN EXTREMES TO FIND THE PERFECT BALANCE, MANUPATRA, 82.

⁴⁴*Supra* note 45 at 82.

Emphasis must be placed on monitoring and measurement of trends in violence against women by way of independent large-sample surveys.⁴⁵ It would help in formulating better policies favouring women, also increasing public attention towards it. It can aid in reporting of cases.

CONCLUSION

As long as fear grips the women preventing them from reporting, effective action would be sporadic and inadequate. Attacks like these shouldn't be condoned as private matter as it is a matter of public concern. Take a look around yourself, your neighbour, relatives, friends, acquaintances, and observe keenly, you will find victims of cruelty, even if it is of subtle nature.

In Hindu marriage, wife is respected as long as she remains obedient and accepts brutality as her punishment. In fear of losing respect within the family and social disapproval, women don't come forward which needs to change marking the advent of a progressive society. There can be no single solution for the augmentation of S498A. merely, the laws wouldn't help in escalation of cases being reported or in the general awareness. It is always a balanced work divide between the society and the judicial system to look out for the welfare of each other.

Abovementioned are some of the recommendations that can help the law achieve a rehabilitative status rather than a deterrent status with the apprehension of misuse. The prevailing law is in need of amendment than being scrapped down. It came up with the promise of safeguarding women from the cruelty at the hands of their loved ones, which can be fulfilled if certain loopholes are filled preventing it from further perils. Besides amending the law and moral status of the society, certain requirements like education, employment opportunities, welfare activities, overall wellbeing of the women have to be fulfilled for a perfect balance.

⁴⁵*Supra* note 32 at 2.