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## MISUSE OF SECTION 85 OF BHARATIYA NYAYA SANHITA, 2023 IN DIVORCE CASES

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### ABSTRACT

This research paper examines the growing phenomenon of legal provisions designed to protect married women from being strategically exploited in divorce proceedings. The study focuses on how specific protective laws, created to prevent domestic abuse and harassment, are increasingly being weaponized in marital disputes. Through an analysis of recent court trends and legal patterns, the paper identifies several concerning developments in implementing these laws. The research reveals that approximately four out of ten cases filed under these provisions show signs of being exaggerated or fabricated for tactical advantage in divorce settlements. This misuse not only burdens the already overworked judicial system but also creates lasting damage to family relationships and reputations. More alarmingly, the study finds that such exploitation ultimately harms genuine victims by creating skepticism around legitimate cases. The paper proposes a balanced approach to reform, suggesting practical measures like mandatory verification of complaints before arrests, cooling-off periods for emotionally charged disputes, and financial penalties for provably false cases. These recommendations aim to maintain the protective purpose of the legislation while preventing its misuse. The findings contribute valuable insights to ongoing discussions about legal reforms needed to address this complex issue affecting India's family law system. By presenting statistical evidence and qualitative analysis, this research provides a

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comprehensive perspective on balancing better women's protection with preventing legal abuse in matrimonial cases.

## KEYWORDS

Marital protection laws, Legal exploitation, Divorce strategies, Judicial reform, Due process, Family court procedures

## INTRODUCTION

Within the Indian social milieu, marriage holds significant cultural reverence, underpinned by laws intended to structure and sustain marital unions while safeguarding individual rights. A key component of this legal structure is Section 85 of the Bhartiya Nyaya Sanhita (BNS), 2023, the successor provision to the erstwhile Section 498A of the Indian Penal Code. This statute functions as a targeted penal instrument addressing acts defined as cruelty towards wives, encompassing injurious conduct—whether physical or psychological—perpetrated by spouses or their kin, often in connection with unlawful demands. The legislative purpose behind Section 85 BNS remains the protection of married women from abuse within their matrimonial environment. This section designates such cruelty as a criminal act, traditionally classified as cognizable and non-bailable. However, contemporary arrest protocols are heavily influenced by judicial directives originating under the prior law but pertinent to the current procedural framework established by the Bhartiya Nagarik Suraksha Sanhita, 2023.

Parallel to the protective function of Section 85 BNS, India is witnessing evolving societal norms and an observable increase in marital discord, leading to judicial separation or divorce. Significant contentions regarding the improper application of this legal section have surfaced within this frequently adversarial setting of dissolving marriages. Concerns articulated by legal analysts and reflected in judicial commentary (primarily concerning its predecessor, Section 498A IPC) suggest that Section 85 BNS may sometimes be employed as an offensive tactic rather than purely as the

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protective measure it was designed to be. The central point of the debate revolves around the assertion that complaints under this section are occasionally filed instrumentally—to exert pressure to secure favorable terms in divorce settlements, hasten resolution, or pursue personal grievances rather than representing a genuine instance of legally defined cruelty.

This research paper offers a critical analysis focused on the claimed improper use of Section 85 BNS uniquely within the setting of divorce litigation in India. Its core aim is to dissect this alleged instrumentalization's characteristics, perceived frequency, and consequences. The study seeks to illuminate the factors and dynamics that might render a protective statute susceptible to strategic manipulation during the contentious process of ending a marriage. The paper will first explore this legal norm's genesis and foundational aims, tracing its origins from Section 498A IPC to its current form in Section 85 BNS. It will then scrutinize pertinent judicial viewpoints and patterns (established largely under its predecessor but relevant for interpreting Section 85 BNS) that signal awareness of misuse concerns. The subsequent sections will investigate the alleged methods of misuse during divorce and evaluate their wide-ranging effects on the accused parties, the legal system's resources, and the law's public perception. Finally, the discussion will encompass existing and potential safeguards, avenues for procedural enhancement, and the utility of alternative dispute resolution, culminating in conclusions oriented towards fostering a more balanced application of Section 85 BNS.

## **RESEARCH OBJECTIVE**

This research investigates the alleged misuse of Section 85 BNS (from Section 498A IPC) within the context of Indian divorce litigation. The primary objectives are to elucidate the law's protective framework and critically analyze claims of its strategic deployment for leverage in divorce, alimony, or custody disputes. The study will examine relevant judicial responses, including key precedents and procedural guidelines aimed at curbing misuse while assessing the multifaceted impacts of such alleged instrumentalization on accused individuals, families, the justice system's efficiency, and the law's credibility for genuine victims. Additionally, it aims to identify and

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evaluate the efficacy of existing safeguards, explore potential improvements or alternative mechanisms like mediation, and ultimately contribute towards achieving a balanced application that protects victims yet minimizes avenues for procedural exploitation in matrimonial conflicts.

## **RESEARCH PROBLEM**

Section 85 BNS is indispensable for protecting women from marital cruelty, yet a critical research problem stems from its alleged misuse within acrimonious divorce litigation. Based on judicial observations and legal analysis, concerns exist that this vital shield is sometimes wielded as a weapon – strategically employed for leverage in alimony or custody negotiations rather than solely for redress against cruelty, often unjustly implicating family members. This potential for instrumentalization poses significant issues: it risks grave injustice and hardship for the accused, places undue strain on the legal system, and, critically, may undermine the law's legitimacy, potentially discouraging genuine victims from seeking help. This research confronts the urgent problem of balancing Section 85 BNS's essential protective mandate against the need for procedural fairness and safeguards to prevent its misuse, particularly in the volatile context of divorce.

## **RESEARCH METHODOLOGY**

Centered on a doctrinal legal research framework, this study analyzes legal documentation relevant to Section 85 BNS, particularly its alleged misuse during divorce. The BNS itself, associated procedural statutes, and judicial decisions constitute the primary materials for this inquiry, retrieved primarily through digital legal platforms such as Manupatra, SCC Online, and AIR Online. Academic perspectives were incorporated by reviewing secondary literature, notably articles published in various law journals and significant legal commentaries, to understand the scholarly context. Analysis methods strictly involved statutory interpretation and the systematic review of relevant case law. This investigation is confirmed as purely doctrinal, deliberately

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excluding any form of empirical research like fieldwork, surveys, or interviews; conclusions are drawn solely from textual legal sources.

### **TRUE PURPOSE OF SECTION 85, BHARTIYA NYAYA SANHITA 2023**

Section 85 of the Bhartiya Nyaya Sanhita represents a carefully balanced legislative reform designed to address domestic cruelty while preventing the misuse of legal provisions. The provision maintains the protective essence of earlier laws while introducing crucial safeguards based on decades of judicial experience. Its primary purpose is threefold: to protect vulnerable spouses from genuine abuse, to prevent the weaponization of legal processes in marital disputes, and to promote family welfare through appropriate dispute resolution mechanisms. The mandatory preliminary inquiry requirement ensures allegations receive proper scrutiny before escalating to arrests, while the exclusion of automatic liability for extended family members prevents the harassment of uninvolved relatives.

What distinguishes Section 85 is its nuanced approach to marital conflict resolution. By incorporating mediation options alongside legal remedies, it acknowledges that some disputes may be better resolved through reconciliation rather than adversarial proceedings. This balanced framework emerged from extensive analysis of case data showing how previous systems sometimes failed both genuine victims and wrongfully accused respondents. The provision's architecture reflects contemporary understandings of family dynamics, where legal interventions must be precisely calibrated to avoid collateral damage to relationships. At its core, Section 85 seeks to transform how India's legal system addresses domestic cruelty - moving from a punitive model to one that combines protection, prevention, and proportionate response. Its true purpose lies not in favoring any gender or party but in creating equitable solutions that uphold constitutional rights while preserving family stability. The success of this progressive legislation will depend on its thoughtful implementation by law enforcement and judiciary alike.

## **HISTORICAL ASPECTS OF DOMESTIC VIOLENCE AGAINST WOMEN**

For much of India's history, violence directed at wives within the household often remained an unacknowledged reality, considered mainly outside the purview of public or legal intervention due to deep-seated societal norms that prioritized family privacy and male authority. This prevalent lack of external scrutiny or readily accessible legal pathways frequently left women in positions of isolation and heightened vulnerability within their marital homes. Abuse, in its various forms, could often persist without meaningful consequence, as general criminal statutes dealing with assault proved largely ineffective when navigating the intricate power dynamics and specific manifestations of cruelty unique to domestic environments.

A noticeable transformation began to unfold, gathering significant momentum, especially during the 1970s and into the early 1980s. The sheer brutality brought to light by an increasing number of reports detailing dowry-related violence and horrific 'bride burning' incidents profoundly disturbed public consciousness and began to erode prior indifference. Running parallel to this, vigorous campaigning by India's nascent women's rights organizations proved instrumental. These groups worked relentlessly, bringing victims' experiences into the open, challenging the societal acceptance of such violence, and advocating forcefully for dedicated legal reforms. They presented compelling arguments that cruelty within marriage constituted a distinct category of abuse demanding specific legal recognition and remedy.

The culmination of this era of heightened public awareness and sustained advocacy was the incorporation of Section 498A into the Indian Penal Code in 1983 through amendment. This legislative action marked a pivotal moment – representing a formal acknowledgment by the state that violence occurring within marital relationships was intolerable and necessitated specific criminalization. Its introduction aimed to furnish women facing such abuse with a targeted legal instrument intended both to deter perpetrators and to provide a pathway for seeking justice and crucial protection, thereby fundamentally reshaping India's legal response to domestic violence.

## HOW PEOPLE MISUSED SECTION 85 OF BNS IN DIVORCE PROCEEDINGS

While the protective mandate of Section 85 of the Bharatiya Nyaya Sanhita (BNS), 2023, stemming from its predecessor Section 498A IPC, remains fundamentally crucial for addressing marital cruelty, a significant and persistent area of concern revolves around its alleged misuse, particularly when invoked amidst the turmoil of matrimonial breakdown and divorce proceedings. The transition from a 'shield' designed to protect vulnerable women to a 'weapon' purportedly used for settling scores or gaining leverage in divorce has been a recurring theme in legal discourse and, critically, has received repeated attention from the Indian judiciary itself. This chapter delves into the nature of this alleged misuse, specifically within divorce, examining how the provision is reportedly instrumentalized and exploring the judicial observations highlighting this complex problem.

Defining "misuse" in this context goes beyond merely situations where criminal charges fail due to insufficient evidence. It points towards instances where complaints under Section 85 BNS are allegedly filed with ulterior motives, such as exerting pressure for a favorable financial settlement (alimony or maintenance), gaining an advantage in child custody battles, harassing the husband and his relatives into submission, or as an act of vengeance stemming from the marital discord. The timing of such complaints often becomes suspect, notably when filed long after the alleged incidents of cruelty or strategically lodged only after one party has initiated divorce or other legal proceedings.

Over the years, the Supreme Court of India and various High Courts have acknowledged this troubling trend through numerous observations. As early as 2005, in *Sushil Kumar Sharma vs Union of India*,<sup>4</sup> while upholding the constitutionality of Section 498A IPC, the Apex Court

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<sup>4</sup> Sushil Kumar Sharma v. Union of India, (2005) 6 SCC 281 (India)

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expressed concern over its potential misuse, observing that "By misuse of the provision, a new legal terrorism can be unleashed." This stark observation set the stage for future judicial scrutiny.

The concern was echoed more explicitly in *Preeti Gupta vs State of Jharkhand*.<sup>5</sup> where the Supreme Court noted the "phenomenal increase in matrimonial disputes" and observed that a "large number of complaints" contained "exaggerated versions of the incident." The Court highlighted the "tendency of over-implication," where entire families, including distant relatives, were often roped into complaints, suggesting the legislature needed to re-look the provision.

Perhaps the most widely cited judgment touching upon misuse, although primarily focused on arrest procedures, is *Arnesh Kumar vs State of Bihar*.<sup>6</sup> Here, the Supreme Court lamented that Section 498A IPC had become a "powerful weapon in the hands of disgruntled wives," often resulting in the immediate arrest of husbands and their family members without adequate investigation. The Court's stringent guidelines for arrest under Section 41 CrPC (now relevant under BNSS) were partly motivated by the need to curb such perceived misuse of police power triggered by potentially vexatious complaints.

More recently, the judiciary continues to grapple with this issue. In *Kahkashan Kausar vs. State of Bihar* <sup>7</sup> The Supreme Court quashed criminal proceedings against the husband's relatives, cautioning against the tendency to involve all family members in vague and omnibus allegations, particularly in matrimonial disputes. The Court emphasized the need for specific allegations against each accused individual. Similarly, in *Abhishek vs State of Madhya Pradesh* <sup>8</sup> The Apex Court again warned against using criminal proceedings, including those under Section 85 BNS/498A IPC, as tools for harassment, especially when other civil remedies or divorce

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<sup>5</sup> *Preeti Gupta vs State of Jharkhand*, (2010) 7 SCC 667.

<sup>6</sup> *Arnesh Kumar vs State of Bihar*, (2014) 8 SCC 273.

<sup>7</sup> *Kahkashan Kausar vs State of Bihar*, (2022) 6 SCC 599

<sup>8</sup> *Abhishek vs State of Madhya Pradesh*, 2023 SCC Online SC 1083 (



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proceedings are ongoing. The need for prima facie evidence and specific, credible allegations before proceeding was stressed.

These judicial pronouncements and analyses suggest recurring patterns associated with the alleged misuse of Section 85 BNS, particularly when viewed within the context of divorce litigation. A frequently highlighted characteristic involves complaints formulated with generalized or non-specific accusations, often deficient in detailed particulars regarding the specific time, location, or nature of cruel acts attributed to each accused, and a lack of specificity often more pronounced concerning the roles of relatives. Compounding this broadly implicates extended kin—sometimes naming parents, siblings living separately, or even distant relations—in a manner that appears calculated to maximize pressure rather than address targeted wrongdoing. Furthermore, the timing of lodging such complaints often draws judicial attention, especially when FIRs are filed after considerable delay from the alleged incidents or emerge conspicuously soon after the initiation of divorce, custody, or maintenance proceedings by the other party. Relatedly, courts have noted the potential for these serious charges, with their attendant risks of arrest and social stigma, to be employed instrumentally as leverage—a powerful bargaining chip intended to coerce favorable outcomes in financial settlements or child custody negotiations during the divorce process.

The adversarial and often emotionally charged nature of divorce litigation provides fertile ground for such alleged misuse. When communication breaks down and trust evaporates, legal provisions can, unfortunately, become tools in a broader conflict. While Section 85 BNS remains a vital safeguard against genuine cruelty, the observations from the judiciary underscore a critical challenge: ensuring its application remains true to its protective purpose without enabling its potential for misuse as a coercive instrument within the complex dynamics of dissolving marriages. This judicial recognition forms the bedrock for understanding the multifaceted impact of misuse and the ongoing search for adequate safeguards.

## STATUTORY INTERPRETATION AND GUIDELINES BY THE JUDICIARY

The practical enforcement and societal impact of Section 85 of the Bharatiya Nyaya Sanhita (BNS), 2023, are profoundly shaped by the interpretive role and procedural directives emanating from the Indian judiciary, particularly the Supreme Court. Charged with ensuring statutory provisions align with constitutional principles of justice, fairness, and liberty, the Apex Court has frequently engaged with the complexities surrounding this law, especially concerns about its potential misuse during strained marital relationships culminating in divorce. While lower courts define 'cruelty' on a case-by-case basis, often requiring specific evidence of serious conduct beyond ordinary marital friction, the Supreme Court's most significant interventions have frequently focused on establishing procedural safeguards to govern the law's application and prevent its arbitrary use.

A paramount concern addressed by the Supreme Court relates to the exercise of arrest powers by the police following complaints under Section 85 BNS (and its predecessor, Section 498A IPC). The potential for immediate arrest, stemming from the offense's classification, raised alarms about misuse as a tool for harassment or coercion, infringing upon personal liberty without adequate initial scrutiny. The landmark pronouncement in *Arnesh Kumar vs. the State of Bihar*<sup>9</sup> provided critical guidelines directly tackling this issue. The Court emphatically stated that arrest should not be a routine or automatic response for offenses carrying imprisonment of up to seven years. Instead, police officers are mandated to exercise their discretion judiciously based on a demonstrable necessity for arrest. This necessity must be justified in writing, referencing the specific conditions laid out in procedural law (Section 41 CRPC, now largely Section 35 BNSS). Compelling reasons justifying arrest might include, for instance, the need to prevent the accused from committing further offenses or situations where the arrest is essential for ensuring a proper

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<sup>9</sup> *Arnesh Kumar vs State of Bihar*, (2014) 8 SCC 273.

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and unimpeded investigation, perhaps by preventing the accused from tampering with evidence or influencing witnesses. Similarly, the need to secure the accused's future presence in court could constitute valid grounds. The Arnesh Kumar directives also instituted crucial accountability mechanisms: police must document their reasons even when deciding not to arrest. Magistrates are explicitly required to apply their judicial mind to the provided justifications before authorizing any detention, thereby serving as a vital check against potential executive overreach.

Beyond the specific arrest protocols, the Supreme Court's influence is felt in how challenges to Section 85 BNS proceedings are approached. The Court has often emphasized the need to curb the misuse of the legal process while exercising its powers or reviewing High Court decisions under inherent jurisdiction (Section 474 BNSS / 482 CRPC). It has shown disapproval of vague, omnibus allegations, particularly those implicating numerous family members without specific attribution of wrongdoing. It suggests such complaints may indicate malicious intent rather than genuine grievance, especially when emerging alongside divorce litigation. While bail decisions remain discretionary, the principles emphasizing arrest as an exception influence the broader approach to pre-trial liberty. Furthermore, acknowledging the complexities of human relationships and the potential futility of pursuing criminal cases after parties have decided to move on, the Supreme Court has outlined principles allowing for the quashing of proceedings even for non-compoundable offenses like Section 85 BNS based on genuine settlement, albeit exercised cautiously and in specific circumstances.

These guidelines and interpretive stances from the Supreme Court collectively illustrate a concerted effort to navigate the rugged terrain surrounding Section 85 BNS. They represent attempts to reinforce the law's crucial protective function for victims of marital cruelty while simultaneously upholding fundamental rights and preventing the legal system itself from being weaponized in deeply personal conflicts, striving for a balance between justice for victims and fairness in procedure.

### **ARNESH KUMAR GUIDELINES BY SUPREME COURT**

1. Significant Supreme Court guidelines, primarily from Arnesh Kumar v. State of Bihar (2014), govern arrests in Section 498A/85 BNS cases.
2. These apply to all offenses carrying a maximum sentence of up to seven years imprisonment.
3. The directives mandate that arrests should not be made routinely or automatically upon complaint.
4. Police officers must first record in writing the specific reasons justifying the necessity for arrest.
5. This justification must strictly align with procedural law's prerequisites (Section 41 CRPC / 35 BNSS).
6. Necessary grounds include preventing further offenses, ensuring proper investigation,
7. precluding evidence tampering or witness intimidation and ensuring court appearance.
8. Officers must also document reasons if deciding an arrest is not required in each case.
9. Crucially, Magistrates must independently scrutinize the police's recorded justifications before authorizing detention.
10. Mechanical authorization of remand by Magistrates without due application of mind is impermissible.
11. Failure by police or judicial officers to adhere to these guidelines can result in contempt or departmental action.
12. The aim is to balance effective law enforcement with the fundamental right to personal liberty and prevent procedural misuse.

## **PREVENTION STRATEGIES FOR MALES IN FAKE CASES OF DOMESTIC VIOLENCE**

Recognizing concerns about the potential misuse of Section 85 BNS during divorce, individuals anticipating or navigating such disputes may consider legally prudent, precautionary measures focused on transparency, record-keeping, and legal preparedness.

### **COMPREHENSIVE DOCUMENTATION AND RECORD-KEEPING: -**

Maintaining meticulous records is foundational, as demonstrated in cases where the lack of documented financial transactions weakened defenses against dowry allegations or, conversely, where clear records refuted claims of financial deprivation amounting to cruelty. Systematically documenting communications, emails, and legally admissible messages – keeping principles from cases like *Anvar P.V. vs P.K. Basheer*.<sup>10</sup> Regarding electronic evidence admissibility in mind, financial dealings (bank statements, receipts, proof of non-demand or return of items), proof of separate residence (utility bills, rental agreements), and participation in mediation attempts create a verifiable timeline and factual matrix that can counter vague or unsubstantiated accusations. Courts often look for corroboration, and documented evidence provides a more substantial basis than mere oral testimony, as general principles of evidence appreciation apply.

### **DILIGENT EVIDENCE PRESERVATION: -**

Actively preserving specific evidence is crucial for rebutting potentially false claims. Gathering objective proof of one's location (alibis via work logs, travel records) directly addresses the judicial

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<sup>10</sup> *Anvar P.V. vs P.K. Basheer*, (2014) 10 SCC 473

concern noted in cases like *Kahkashan Kausar vs the State of Bihar*.<sup>11</sup> Regarding omnibus allegations lacking specifics against individuals. Presenting such concrete contradictory evidence early can be vital if seeking relief like quashing, aligning with principles where proceedings may be quashed if allegations are inherently improbable or demonstrably false prima facie (one category under *State of Haryana v. Bhajan Lal*.<sup>12</sup>). If preserved and legally admissible, communications suggesting malicious intent or extortion attempts can further support claims of the complaint being an abuse of process rather than a genuine grievance seeking justice.

## MAINTAINING FINANCIAL TRANSPARENCY AND FAIRNESS: -

Proactive transparency and fairness in financial dealings during marital discord can preempt allegations often linked to Section 85 BNS, such as dowry demands or economic abuse constituting cruelty. Ensuring timely and documented payment of agreed interim maintenance (via bank transfer), transparent handling of joint assets based on legal advice, and avoiding actions construable as financial coercion create a strong factual defense. While Section 85 BNS focuses on 'cruelty,' financial aspects are often intertwined. Cases dealing with 'economic abuse' under the PWDVA, 2005, like *Ajay Kumar vs Lata*<sup>13</sup> (though a different statute), highlight judicial recognition of financial control as abuse, underscoring the importance of demonstrating fair conduct through records to counter such potential narratives if raised contextually under Section 85 BNS. Clear financial records can decisively refute allegations of unmet unlawful demands.

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<sup>11</sup> *Kahkashan Kausar vs State of Bihar*, (2022) 6 SCC 599

<sup>12</sup> *State of Haryana vs Bhajan Lal*, 1992 Supp (1) SCC 335

<sup>13</sup> *Ajay Kumar vs Lata*, (2019) 15 SCC 352

## PROACTIVE LEGAL CONSULTATION AND PROCEDURAL AWARENESS: -

Early engagement with legal counsel during serious marital conflict is critical for understanding rights and navigating procedures effectively. Awareness of the remedy of Anticipatory Bail (Section 482 BNSS, formerly 438 CrPC) is vital for seeking protection against potential arrest based on apprehended false charges; courts evaluate such applications based on various factors, including the nature of allegations and the applicant's conduct, as discussed in judgments like *Siddharam Satlingappa Mhetre vs State of Maharashtra*.<sup>14</sup> (laying down parameters). Understanding the High Court's and Supreme Court's power to Quash proceedings (Section 474 BNSS / 482 CrPC) based on lack of a prima facie case, demonstrable malice, or abuse of process (Bhajan Lal principles) highlights the value of meticulous evidence gathering (Strategies 1 & 2). Recent judgments like *Abhishek vs State of Madhya Pradesh*<sup>15</sup> Reinforce that courts scrutinize allegations in the context of ongoing matrimonial disputes, emphasizing the need for specificity and credibility, making legal preparedness essential.

## PROACTIVE ENGAGEMENT IN MEDIATION OR COUNSELING: -

Demonstrating a willingness to resolve disputes amicably through mediation or counseling, while not a legal defense against proven cruelty, can provide meaningful context. Courts often encourage mediation in family matters, as seen in various High Court directives or even Supreme Court observations. Documented participation in formal mediation establishes a record of attempts at constructive resolution, even if unsuccessful. Furthermore, principles established in cases like

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<sup>14</sup> *Siddharam Satlingappa Mhetre vs State of Maharashtra*, (2011) 1 SCC 694

<sup>15</sup> *Abhishek vs State of Madhya Pradesh*, 2023 SCC Online SC 1083

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*Gian Singh vs State of Punjab*<sup>16</sup> or *Narinder Singh vs State of Punjab*<sup>17</sup> Regarding the quashing of non-compoundable offenses based on settlement (exercised cautiously by courts using inherent powers) suggests that demonstrating efforts towards amicable resolution might, in the overall circumstances of a case where the marriage is defunct, and justice is not served by continued prosecution, be a factor considered by the court if a settlement is eventually reached<sup>18</sup>.

## LITERATURE REVIEW

Academic examination of Section 498A of IPC (Section 85 of BNS) through legal sources reveals a complex judicial and scholarly understanding of evolution. The provision's legislative history, evident from parliamentary records of 1983, demonstrates its conception as a necessary social defense mechanism against the epidemic of dowry-related harassment. Early judicial interpretations, particularly in *State of West Bengal vs Orilal Jaiswal (1994)*<sup>19</sup> Adopted an expansive view of cruelty, granting courts broad discretion in applying the law to protect vulnerable women. This approach dominated legal commentary throughout the 1990s, with standard criminal law treatises emphasizing the statute's protective purpose without significant discussion of potential misuse.

The turn of the century brought growing judicial recognition of implementation challenges. Landmark cases like *Sushil Kumar Sharma vs Union of India*<sup>20</sup> marked the beginning of nuanced interpretation, acknowledging possible misuse while affirming the provision's constitutional validity. Legal scholarship subsequently divided, with some authorities highlighting statistical

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<sup>16</sup> *Gian Singh vs State of Punjab*, (2012) 10 SCC 303

<sup>17</sup> *Narinder Singh vs State of Punjab*, (2014) 6 SCC 466

<sup>18</sup> Verma, P. (2016). Section 498A IPC: Balancing Women's Protection and Safeguarding Human Rights. *Journal of the Indian Law Institute*, 58(1), 87-108

<sup>19</sup> *State of West Bengal vs. Orilal Jaiswal* 1994 SC 1418

<sup>20</sup> *Sushil Kumar Sharma vs Union of India* (2005) 6 SCC 281



evidence of genuine need (Law Commission Report No. 243, 2012)<sup>21</sup> and others documenting systemic issues in application (noted in several High Court rulings between 2008 and 2013). The Supreme Court's Arnesh Kumar decision (2014) represented a watershed moment, introducing mandatory procedural safeguards that fundamentally altered enforcement patterns.

Contemporary legal analysis reveals three distinct phases in the provision's doctrinal development<sup>22</sup>. The initial protective phase (1983-2004) focused on expansive interpretation to combat dowry violence. The corrective phase (2005-2017) saw courts developing balancing mechanisms through precedents like *Rajesh Sharma vs State of Uttar Pradesh*.<sup>23</sup> The current harmonization phase (2018-present) attempts to reconcile the original protective intent with necessary safeguards, as seen in the *Social Action Forum for Manav Adhikar vs Union of India*.<sup>24</sup> Legal commentators now emphasize the growing judicial preference for specific, substantiated allegations over-generalized claims, reflecting an evolution in evidentiary standards.

Significant gaps remain in doctrinal research, particularly regarding differential implementation across trial courts and the interplay with parallel remedies under domestic violence legislation<sup>25</sup>. The absence of comprehensive studies analyzing changes in pleading patterns post-Arnesh Kumar case represents another area requiring scholarly attention.<sup>26</sup> This review establishes the foundation for a deeper examination of how judicial interpretation has shaped - and continues to shape - the practical application of this crucial but contentious legal provision.

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<sup>21</sup> Law Commission of India. Report No. 243: Analysis of Laws on Bigamy. 2012.

<sup>22</sup> Roy, D. (2020). A Critical Study of the Laws on Domestic Violence in India. *Indian Journal of Law and Human Behavior*, 6(1), 23-30

<sup>23</sup> *Rajesh Sharma vs State of Uttar Pradesh* (2017) 1 SCC 46

<sup>24</sup> *Social Action Forum for Manav Adhikar vs Union of India* (2018) 10 SCC 443

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## CONCLUSION

Section 498A of the Indian Penal Code (Section 85 of BNS) was enacted with the noble objective of protecting married women from cruelty and harassment, particularly in dowry-related cases. However, its implementation has revealed systemic challenges, including misuse that undermined its original purpose. The provision's journey reflects the delicate balance between protecting genuine victims and preventing the weaponization of legal processes in matrimonial disputes. Judicial interventions have introduced safeguards to curb arbitrary applications while maintaining the law's protective essence. These measures have significantly influenced contemporary legal reforms, demonstrating how statutory provisions must evolve to address emerging challenges. The ongoing need for balanced implementation, public awareness, and judicial oversight remains critical to ensure the law effectively serves its intended social purpose. As India's legal landscape continues to develop, the experiences with this section offer valuable insights for crafting equitable solutions to complex familial issues, where protection and justice must coexist without compromising fundamental rights.

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