

Cruelty Against Husband in Odisha Scenario: A Social Legal Perspective

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Abstract

The present study aims to review the domestic violence against men. Domestic violence is a severe problem that is not only faced by women but also by men in Indian society. With social transformation, the concept of cruelty has undergone a phenomenal change. In the current era of women's empowerment, legislation is being enacted and effective actions are being taken to safeguard women, who are regarded as the weaker members of society. But instead of serving as a shield for protection, this tool is now being wielded by women against their husbands and their husbands' relatives. Consequently, instances of cruelty perpetrated by wives against their husbands are increasing, presenting a threat to the core objective of promoting gender equality, and this issue is currently a subject of intense debate. This study aims to shed light on the concept of cruelty, its different dimensions, and the remedies accessible to husbands in cases of cruelty, while also proposing some corrective measures. It is imperative to address the misuse of legal provisions by wives and restore a sense of equilibrium in the pursuit of gender justice.

Keywords: Cruelty, women, law, Husband, Odisha, constitution, Hindu, marriage

INTRODUCTION

The times have evolved from an era when it was simply assumed that women were the sole victims of cruelty. In the Indian context, marriage is considered a societal institution, symbolizing the union of a man and a woman as they attain the respected roles of husband and wife. This institution is regarded as a sacred concept. India, being a land of diversity, has given birth to several religions, including Hinduism, Buddhism, Jainism, and Sikhism. Over the centuries, the nation has experienced diverse religious traditions and rituals, each leaving its imprint on the lives of its people. There is no comparable provision in any state that prohibits spouses from being harsh to men. However, Section 13(1)(ia) of the Hindu Marriage Act, 1956, allows both the wife and the husband to seek a divorce by alleging that their spouse has subjected them to cruelty after marriage [1].

In India, marriage holds the status of a sacred sacrament, representing a revered union between a man and a woman that serves to elevate their social standing. Its primary purpose is not focused on providing sexual pleasure but rather on establishing an enduring connection for both social and spiritual reasons.

The spiritual dimension of marriage is centered on procreation and the nurturing of children. As Swami Sivananda suggests, marriage is a sacred bond that should not be taken lightly or reduced to base desires. It encompasses a higher purpose beyond mere physical gratification, including, to some extent, the essential role of propagating the human race. The offspring of the husband and the wife are also to be spiritual beings because they are other souls coming into this earth-plane to work out their evolution" [1]. Sociologists define marriage as a social institution in which a man and a woman form

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a socially sanctioned relationship as husband and wife. This is a system that necessitates modification between the two partners in accordance with their respective role expectations. It satisfies bodily, moral, and social needs.

The laws pertaining to cruelty committed by wives against their husbands are not as well-defined as those for the reverse scenario. Given the historical and long-standing dominance of men over women in our society, it can be challenging to acknowledge the idea that women can also perpetrate cruelty against their husbands. However, as women's consciousness has grown and the tides of feminism have risen, as has their education and independence, they have begun to abuse legal protections against their husbands in order to meet their needs and expectations. In several instances, Indian courts have recognized this fact and have approved divorces for husbands based on the grounds of mental cruelty inflicted by their wives.

HISTORICAL POSITION

Hindu marriage is a holy ritual in a Hindu's life, along with other sacraments that are known to be vital for the entire life. Marriage is the legal way for a man and a woman to live together and carry out their responsibilities, and husband and wife are regarded one in law. The Indian Divorce Act was passed in 1869, but it remained applicable to Hindus, and on May 18, 1955, following independence, the Hindu Marriage Act was passed, which controls all things and situations pertaining to Hindu marriages.

Concept of Cruelty

Cruelty is defined as an inhuman attitude or treatment of one spouse or partner or relative of one spouse against another spouse or relative of another spouse. It may be either physical or mental. If there exists a threat to an individual's life, physical well-being, property, and they continue to live together as spouses, it is considered a matter of physical concern. And it is mental cruelty when it causes mental pain, agony, and suffering in any way and is of such magnitude that it breaks the link between the husband and wife.

The concept of 'Cruelty' has been discussed in the subsequent chapter but here a brief reference is made to the meaning of the term cruelty. "Cruelty in its literal sense can be defined as conduct that causes bodily or mental injury, or apprehension to such injury, to a person or an animal, without legitimate purpose. When we talk of cruelty against human it can be physical, mental, financial or emotional" [2].

In the present research paper, the issue of cruelty against men in the social and cultural spheres of life has been presented. Laws are designed to protect women from cruelty.

When an individual's life, physical health, property, or well-being is in jeopardy, and they still cohabit as spouses, it is regarded as a situation of physical significance. It depends on the temperament of the person and largely depends on their lifestyle and socioeconomic status. It is the inhuman attitude of a human being, that is, a man or woman. But in our society, the law is one-sided and implemented against men and their near relatives with the presumption that the husband might have done the wrong. Cruelty is a social evil, whether caused by men or women. When such a law is implemented with legal presumption, it causes a lot of hardship on the part of the husband. The act of cruelty is causing mental anguish and emotional imbalance.

The study has endeavored to examine the diverse interpretations of the term "cruelty" as defined in different legislations.

Significance of Study

Marriage in India is the bringing together of a man and a woman in order to gain social prestige, and marriage is nothing more than procreation and child care. According to Westmark, marriage has

frequently been viewed as an institution in and of itself. As the number of marriages increases every day, so does the dissolution of marriages in society, whether due to the fault of the husband or woman. Though lawsuits are brought by the wife against the husband and in-laws under the Domestic Violence Act and 498-A of the IPC to seek maintenance and divorce, not all allegations are genuine. Education, employment prospects, economic independence, and societal attitudes have all resulted in significant change to the status of women [2]. The balance of power has shifted in women's favor. It is time to rethink the present cruelty law and make the necessary reforms to keep society in balance. It is time to reconsider the present cruelty law and make the necessary changes in order to maintain societal balance.

Socio-legal Implications of the Law

The Indian law for the protection of women is highly archaic. The protection laws are designed to achieve equal social status for women and to end social exploitation. Women are frequently subjected to brutality, abuse, and victimization in sociocultural social settings; therefore, common feelings prevail in their support.

The idea, meaning, and concept of cruelty fluctuate over time, vary from location to place, and differ from person to person. It is not the same for people in diverse economic and social circumstances. Perhaps this is why the legislature has not provided a precise definition of cruelty and has instead left it up to the judiciary to determine what constitutes cruelty to a specific person in a specific set of circumstances.

Objective of the Study

Social and legal systems tend to presume that Indian husbands, along with their relatives and friends, are the ones who harass their wives, while they often overlook cases where the wife and her family mistreat the husband. Special laws exist to protect women who claim harassment, but similar provisions are generally lacking for men. Following are the objectives of my study:

1. Into discussion statutory provision pertaining to cruelty both against men and women in the light of decided cases.
2. To examine the sociolegal aspects of cruelty against husband and find reason behind increasing numbers of cases under Sec.498A.
3. Make a critical analysis on misuse of Sec.498A of IPC.
4. To study selective cases of matrimonial violence coming under Sec.498A of IPC.
5. To make an empirical study on Sec.498A of IPC to find out the reason behind of its misuse.

IPC Section 498A and its Misapplication Section 498A were originally enacted to protect women from dowry harassment and domestic abuse. However, instances of this provision being abused are now commonplace. It is no surprise that the Supreme Court declared 498A to be legal terrorism in the landmark decision of *Sushil Kumar Sharma vs. Union of India* (2005 (6) SC 266) [3]. "Because cruelty is a cause of divorce under Section 13 (1) (i a) of the Hindu Marriage Act, 1955. Wives frequently utilize these provisions to intimidate their husbands. According to information received from the Hon'ble High Courts (during the year 2011), at the end of 2010, 3, 40,555 cases under Section 498-A IPC were pending trial in various courts.

There were as many as 9, 38,809 accused implicated in these cases excluding Punjab and Haryana courts (243rd report of Law commission on section 498A of IPC). This data makes it crystal clear that day by day the problem is getting more severe. A strict law in this regard needs to be passed by the parliament in order to punish those who act malafidely and tries to misguide the system of law. "Law commission in its 243rd report opined that the Section together with its allied CrPC provisions shall not act as an instrument of oppression and counter-harassment and become a tool of indiscreet and arbitrary actions on the part of the Police (243rd report of Law commission on section 498A of IPC). When women accuse their husbands under S.498A IPC by making the offence non-bailable and cognizable, if the man is innocent he does not get a chance quickly to get justice and "justice delayed is justice denied" (243rd report of Law commission on section 498A of IPC) [4].

With regard to cruelty against husbands in term of mental distress, there is a unique term that has been devised which is popularly known as the psychological terrorism [5–7]. In lieu with the same following are the instances, which would cover constitute as cruelty against husband by wife:

1. Harassing the husband for his continual demand for money to settle her paternal family members' claims;
2. Constantly sending money to her paternal family members without her husband's knowledge or approval;
3. Continuing unlawful connections with her premarital boyfriend or engaging in extramarital affairs at work or in the neighborhood;
4. A demonstration of angry and unrestrained behavior;
5. Inhuman treatment of her in-laws, or addressing them with filthy language or a loud voice, with the goal of creating a scene of public humiliation, threatening, or terrorizing them;
6. Dishonesty towards husbands and in-laws on issues about which they have the right to be informed in order to protect the family's reputation
7. Demand for the transfer of her proprietary rights;
8. Attempts to alienate the husband from his parents and relatives by convincing him to abandon his elderly parents.
9. Visiting her parents' home on a regular basis for no apparent reason, along with the children born out of wedlock, denying the husband access to his progeny;
10. Falsification of facts and information concerning the crimes perpetrated against her;
11. Slandering her in-laws in the neighborhood by spreading fake harassment claims;
12. She dictates to her spouse and is overly interested in his personal and professional life.
13. Concealing or suppressing material details about her medical issues, which if exposed, could lead to her marriage being annulled;
14. Wife's parents being cynically manipulative, misrepresenting and frequently changing their stands and opinions in order to utilize every opportunity to embarrass her husband and relatives;
15. Opposition to any proposal made by the husband to settle a disagreement involving the recovery of conjugal rights;
16. Fraudulent depiction of her financial situation in order to obtain additional money;
17. The wife's relatives refuse to show customary decency and respect to the husband.

Legislative Protection Given to Husbands

Although the law on cruelty presumes husbands to be the offenders of domestic violence and due to the increasing misuse of the presumption that women are the victims, there are various legal safeguards in place for husbands. As a legal option, husbands can initiate counter cases against their wives under the following sections if they believe that the case filed by the latter is based on unfounded or trivial reasons:

1. Giving false evidence u/s 191,
2. u/s 192 for fabrication of evidence,
3. u/s 196 for using false evidence knowing it to be false,
4. u/s 209 for dishonestly making false claims in court.
5. u/s 211 for false charge of offence made with intent to injure

The courts have expressed the view that marital laws should be designed in a way that their real-world application achieves a fair equilibrium between the interests of both spouses in a marriage. Harsh penalties should be imposed to deter those who abuse these laws. Unfounded accusations can lead to the unjust imprisonment of innocent individuals, forcing them to spend valuable time behind bars alongside hardened criminals. This, in turn, has a significant impact on their character and mindset. Therefore, groundless allegations, regardless of their severity or nature, should be discouraged.

- *Taruna Kumar Gadabad vs Subhalaxmi Lenka* on 18 October, 2019, C.P. No.140 of 2010 by the learned Judge, Family Court, Khurda

- *Abinash Samal vs Gitipuspa Samal* on 17 May, 2013, n C. P. Nos. 283, 445 and 446 of 2011. Jajpur
- *Dipak Bhutia vs Rajalaxmi Dhenkanal Tumusingha P.S.* Case No.77 of 2020 corresponding to G.R. Case No. 316 of 2020 BLAPL No.5701 OF 2020
- *SashimukhiDasiani vs Brundaban Das And Ors.* on 23 December, 1958
- *Jashelal Agrawal Alias Jain vs Smt. Puspabati Agrawala* on 12 August, 1998
- *Nihar Ranjan Dash vs Smt Sunita Sarangi* on 15 February, 2017
- *Sudhakar Behera vs State Of Odisha* on 7 November, 2014
- *Prasad Choudhury vs Sasmita Sahoo* on 3 January, 2022, Criminal Proceeding No. 110 of 202, bhadrak
- *Kartik Chandra Dash vs Arnapurna Kar Jagatsinghpur in G.R.* Case No. 14 of 2005
- *Dillip Kumar Rath vs Malkangiri P.S.* Case No.106
- *Narayan Besra @ Vesra vs The State of Odisha And Others* on 11 April, 2023

Remedy Available to Husband

If husband is subjected to cruelty by wife and the case is proved, then he is entitled to get a decree of divorce. The Apex Court and various High Courts have also held that husband can get a decree of divorce on ground of cruelty by wife. If husband alleges cruelty made against him, the burden lies on him to establish his case for getting a decree of divorce from court of law [8]. Cruelty is considered as a ground for divorce in various laws. Some provisions under different laws are as follows:

- Section 13 of The Hindu Marriage Act, 1955
- Section 27 of The Special Marriage Act, 1954
- Section 32 of The Parsi Marriage and Divorce Act, 1936
- Section 10 of The Indian Divorce Act, 1869

CONCLUSION

No one shall be tortured or subjected to cruel, inhuman, or degrading treatment or punishment. It has been noted that during the pendency of a Section 498A lawsuit, husbands and their family are compelled to appear in court to argue their case. Throughout this process, even if the final judgment favors the husband, the emotional and financial distress experienced during the entire legal proceedings is a source of apprehension.

It is a fact that some laws are skewed in favor of women to address the historical and ongoing mistreatment they have encountered. To bolster the argument, consider Section 32(2) of the Protection of Women from Domestic Violence Act of 2005, which states that the court may conclude that an offence under sub-section (1) of Section 31 has been committed by the accused based solely on the testimony of the aggrieved person. However, if no inquiry is conducted to determine if the complaint submitted is accurate or not, the spouse and his family members may experience social humiliation and mental anguish.

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