Save Indian Family Jharkhand

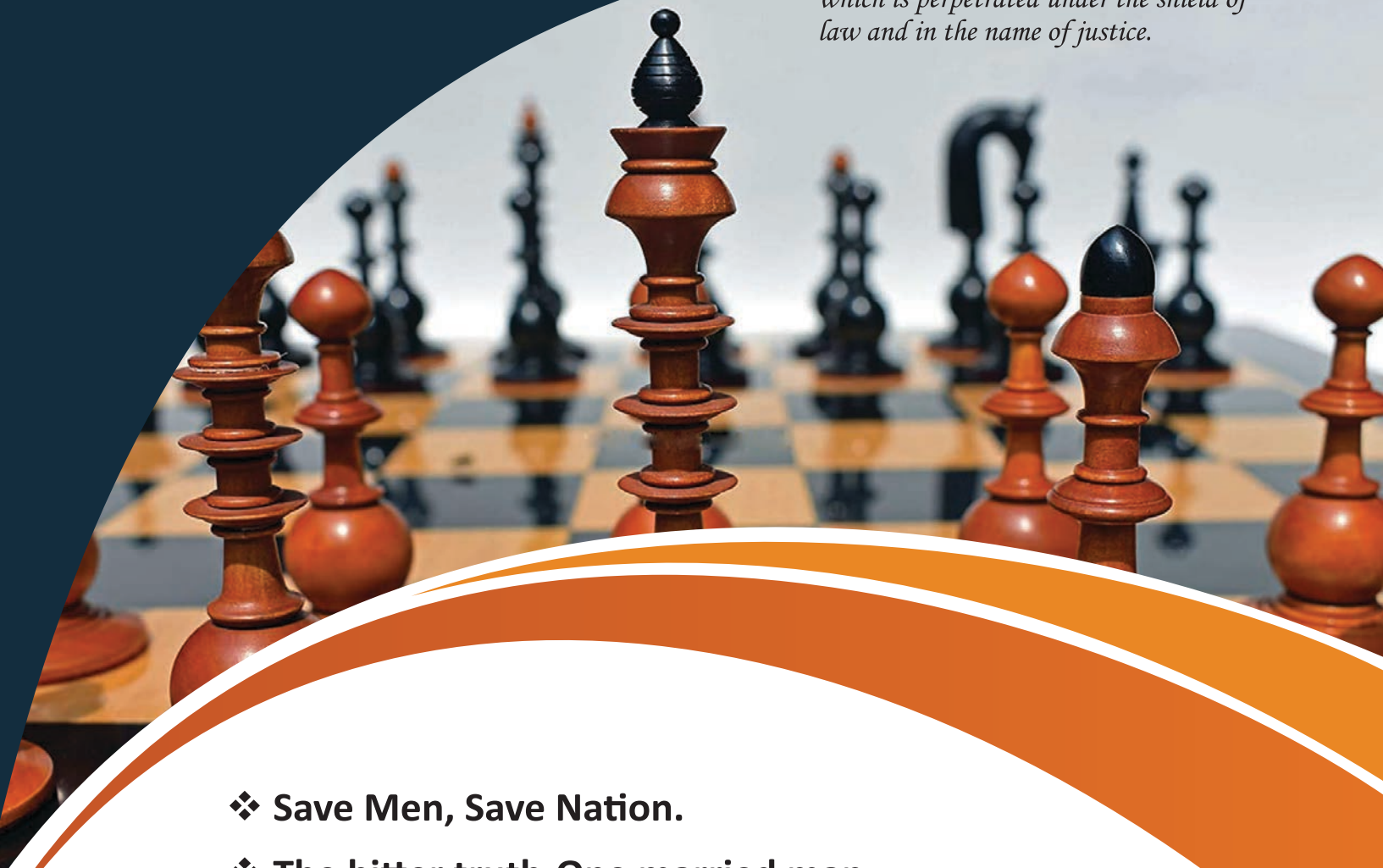
संकल्प

SANKALP

First Edition: January-2022, Volume - 1

Men's Rights Are Human Rights

There is no greater tyranny than that which is perpetrated under the shield of law and in the name of justice.



- Save Men, Save Nation.
- The bitter truth-One married man commits Suicide every 8.3 minutes.

All India Helpline for Men: 8882-498-498

website: https://sifjharkhand.in

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SIF Jharkhand Men's working for the cause of justice.

Unleashing of Legal Terrorism by Misuse of Section 498-A of IPC.

President 's Message

Save Indian Family Jharkhand

It is a proud moment that quarterly magazine - 'Sankalp' is being launched by SIF (Jharkhand). It is a big step forward to achieve our mission in fight for justice for Men.

I am extremely hopeful that magazine would help immensely in reaching our voice to all sections of the society and the judiciary in particular and shall bring out change in their outlook towards issues of Men and families as a whole. It would certainly work as a catalyst in our fight against legal terrorism mainly against misuse of use of Section 498-A IPC, Dowry prohibition Act, DV Act. etc.

I would like to thank and express my gratitude to all members of SIF Jharkhand who have relentlessly put their mind and soul to realize the dream come true.
Thanks for your consistent help and support.

Men Rights are Human Rights.

Sri Alok Ranjan

General Secretary Message
Save Indian Family Jharkhand

Dear Readers,

It gives me immense pleasure to announce the publication of first issue of quarterly magazine - 'Sankalp' by SIF Jharkhand. The need for such initiative arose due to fact that Men have to undergo undue suffering because of gender biased law and general outlook of society which blindly supports women. For a progressive society, it is of paramount importance that both the gender should be treated equally. I am very much hopeful that 'Sankalp' magazine would give necessary impetus in understanding issue's of men and shall be instrumental in changing the perspective of people towards men's right.

Family is a basic unit for nation building but sadly due to prevalent prejudiced system, Men are being forced to commit suicide. This is a matter of great concern which must be addressed. 'Sankalp' is expected to serve as voice for Men so as to understand gravity of the problem.

Finally, I would like to express my sincere thanks to our members for their dedicated efforts in successful launch of the magazine. Unity has been our greatest strength and with the synergy between members, I am confident that we would achieve our goal in near future.

Thanking you,

Save Men, Save Nation.

Sri Ranjit Kumar Singh

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SIF-Jharkhand Introduction

Save Indian Family-Jharkhand (SIF-Jharkhand) works for safeguarding the interest of those men who are implicated in false cases because of the gross misuse of gender biased laws. SIF-Jharkhand provides free and selfless help to men and their families who are victimized by misuse of gender biased laws such as IPC Section 498A, Dowry Prohibition Act, Domestic Violence Act and other cases of similar nature.

SIF-Jharkhand is a Movement, Group of non-funded, non-profit, Non-Government Organization in India (NGO). SIF is a movement which promotes, associates with formation of various NGOs, which intends to work for Men's welfare and strongly believe in replacing the word Men/Women by Person and Husband/Wife by Spouse in any law/ Government Policy. SIF-Jharkhand is body registered under the Societies Registration Act, 1860. Jharkhand Registration No. 145/2020, Ranchi.

The main broad objectives of the group are:

- To spread legal awareness against gender biased laws, abuse of Section 498A/Dowry Prohibition Act, DV Act, suicide by married men due to gender biased laws, abuse of old parents by their daughter in-laws.
- To provide counselling and support to men, family in distress.
- To provide financial, emotional support to children affected by matrimonial disputes.
- To protect the institution of marriage & safeguard interest of old aged parents.
- To work for formation of Men's Commission, Ministry for Men, playing pivotal role in making laws gender neutral.

Our Mission:

To help men and their families who are victims of gender biased law and try to be catalyst to bring positive changes in their lives. To fight against gender biased laws and work for protection of Men's rights. To strive for creation of Men's commission and amendment in laws that are feminist and make it gender neutral.

Our Vision:

To strive for creation of society which values rights of men and gender-neutral laws are enacted in all spheres of marriage, inheritance, procreation, personal and family laws.

Constitutional Safeguard and Criminal Jurisprudential Perspective.

The Constitution is the supreme law of the land and it defines the character of the State. It is a living document, an instrument which makes the government system work. All state organs, Legislatures, Judiciary and Executive are bound by it. The Constitution has provided for separation of power between Legislatures, Judiciary and Executive. The Constitution lays down the frame work defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out Fundamental Rights, Directive Principles of State Policy and the duties of the citizens. The Constitution stands on highest pedestal to all laws framed within territorial precincts of the country, any law enacted by the ruling government has to be in conformity with the Constitution.

The Constitution manifestly defines the central idea of governance in Welfare State. The core of the Constitution is the conscience of the Constitution. Dispensation of Justice: social, economic and political is the core constitutional value & Constitution has bestowed divine duty wedded on Judiciary to protect it. The Constitution ensures both political & economic democracy to its citizens. The Constitution enumerates certain distinct Fundamental Rights to its citizens as a guarantee so that citizens can live their life in peace with dignity in the country. The Indian Constitution contains a chapter on Fundamental Rights (Part-III, Article 12-35) and are constitutional safeguards to the citizens of this country. These rights are fundamental as they are basic to the development of human personality.

The Fundamental Rights as enshrined in Part-III of the Constitution is an exhaustive list and touches various facets of human existence. Since, the topic in hand is an attempt to draw co-relation between Constitutional safeguards as embedded in Part-III of the Constitution with respect to criminal justice system, hence Article 20, 21 & 22 will only be dealt here with.

Justice has been the foremost goals of every human civilization since time immemorial. Justice is called mother of all virtues and queen of all values. Justice is the main guiding principle of any civilized society. It would be apposite to quote Daniel Webster, "Justice, sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together."

The criminal justice delivery system has been the most important aspect in every democratic society. And its implementation in the fairest manner is the biggest responsibility & duty of every organ of the Constitution. The Constitutional safeguards vis-a-vis criminal jurisprudential perspective are outlined explicitly in the Constitution.

1. Rights of accused under Article 20. The Constitution ensures that the persons accused of various offences should get sufficient protection. No one can be condemned guilty unless the court of law finds the person to be guilty of the offence. It is also necessary that the person accused of any crime must get adequate opportunity to defend himself. To ensure fair trial in courts, Article 20 has bestowed certain rights to the accused.

Article 20 of the Constitution has three parts:

(I) There cannot be retrospective amendment in criminal law. No law shall declare any action as illegal from a backdate.

(ii) The doctrine of double jeopardy finds its place in Article20(2) of the Constitution. No person can be prosecuted and punished for the same offence more than once.

The Constitution Bench of the Honorable Supreme Court in **Mazbool Hussain v. State of Bombay 1983** held that the fundamental right which is guaranteed under Article 20(2) enunciates the Principle of Double Jeopardy i.e. a person must not be put in peril twice for the same offence.

(iii) The protection against self incrimination is availed on Article 20(3) of the Constitution. No person shall be asked to give evidence against himself. It gives right to an accused person the right not be a witness against himself. The protection under Article 20(3) is available only against the compulsion of accused to give evidence against himself.

2. Right of accused under Article 21: Right to life and personal liberty has been guaranteed in Article 21 of the Constitution. It is one of the most important right guaranteed by the Constitution, without which the Fundamental Rights would become dead end.
No person shall be deprived of his life and personal liberty except according to the procedure established by law. Right to life & personal liberty has larger connotations. The Honorable Supreme Court in its in-numerable judgments has stated that many other sub-rights emanate from Article 21. The accused person has every right like other citizens of the country except his curtailment of person liberty in conformity with laws.

Every accused under Article 21 has following rights:

(i) Right to speedy trial: Through judicial activism, the Honorable Supreme Court has stated that the concept of speedy trial has an inextricable association with liberty. The right to speedy trial was first recognized in the landmark case; Hussainara Khatton & others v. State of Bihar 1979. The Apex court in this case held that speedy trial is an integral and essential part of the Fundamental Right to life and liberty enshrined in Article 21 of the Constitution.

The Apex Court said, "No procedure which does not ensure a reasonably quick trial can be recognized as reasonable, fair or just, and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21.

The criminal justice system in India places human rights and dignity of human life at a much higher footing. An accused is presumed to be innocent until proven guilty. The alleged accused is entitled to fairness and true investigation and fair trial. The emphasis of criminal jurisprudence is both on fairness and speedy trial.

(ii) Right to fair trial: Fair & speedy trial are bedrock of any criminal justice system. In a criminal case, the fair trial is the triangulation of interest of the accused, the victim and the society.

In Mohd. Hussain v. Govt. of NCT of Delhi 2012, a three Judge Bench of the Apex Court observed, "Speedy justice & fair trial to a person accused of a crime are integral part of Article 21, these are imperatives of the dispensation of justice."

The Apex Court in Maneka Gandhi v. Union of India 1978 stated that principle of natural justice, audi alterarm partem must be followed. The accused must be given reasonable opportunity to prove his innocence.

Indian criminal jurisprudence recognizes presumption of innocence as a human right.

(iii) Right to legal aid: The right to legal aid is constitutionally enshrined in Article 21, 22 and Article 39(A) of the Constitution. Right to legal aid in criminal proceedings is absolute and a trial and conviction which the accused is not represented by a lawyer vitiates the constitutional principles and liable to be set aside. The proposition has been held in Khatri v. State of Bihar 1981.

Article 39-A stipulates that the state shall provide free legal aid by a suitable legislation or schemes to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

In **Hussainara Khatoon and others v. State of Bihar 1979**, the Apex Court observed that it is a constitutional right of every accused person who is unable to engage a lawyer and secure legal service on account of reasons such as poverty, indigence or incommunicado situation, to have free legal services provided to him by the State and the State is under constitutional duty to provide a lawyer to such person if the need of justice so require. "

(iv) Liberty & grant of bail: Personal freedom is the most prized thing for any person. Article 21 bestows right to personal freedom to an individual. life without liberty is eyes without vision. If the liberty of the individual is curtailed it shackles the conscience of the man. Bail by all possibility must be granted to the accused under the provisions of Section 437 & 438 of Cr.P.C. by the court. Bail applications must not be decided in mechanical manner but be given due thoughtful consideration by the court vis-s-vis weighing the nature of offence as alleged for.

Justice V.R. Krishna Iyer often referred as Lord Denning of India, observed in **Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P.** that, "the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedures established by law. The last four words of Article 21 are the life of that human being."

Enlargement of bail or grant of bail has an association with individual liberty.

3. Right of accused under Article 22: As per Article 22, a person who is arrested for whatever reason gets three independent rights:

(i) Right to be told or informed the reasons for the arrest as soon as arrest is made.

(ii) Right to be produced before a Magistrate within 24 hours and

(iii) the right to be defended by an advocate of his choice.

The Honourable Supreme Court said that an arrest cannot be made simply because it is lawful for a police office to do so. Arrest and detention in police lock up can cause incalculable harm to the reputation and self esteem of a person. The arrest should not be made in a routine manner on mere allegation that a person has committed an offence.

In the landmark judgment in Joginder Kumar v. State of UP 1994, the Apex Court has laid down following guidelines governing arrest of a person:

(a) Arrest are not to be made in a routine manner. The officer making arrest must be able to justify its necessity on the basis of some preliminary investigation.

(b) An arrested person should be allowed to inform a friend or relative about the arrest and where he is being held. The arresting officer must inform the arrested person why he is being arrested. And when he is brought to the police station and the arresting officer is required to make an entry in the diary as to whom the information was given.

It is the duty of the Magistrate before whom the arrested person is produced to satisfy himself that the above requirements have been complied with.

In DK Basu v. State of West Bengal 1997, the Apex Court held that law does not permit the use of third degree methods or torture on an accused person. Actions of the State must be right, just and fair. Torture of accused person for extracting any kind of confession would neither be right nor just not fair.

In Prem Shankar Sukla v. Delhi Administration 1980, the Apex Court observed that using handcuffs and fetters(chains) on prisoners violates the guarantee of basic human dignity, which is part of our constitution culture. The draconian practice vitiates the test of Article 14, 19 and 21.

Article 22 is designed to give protection against the act of the Executive or order of non-judicial authorities and applies to a person who has been accused of a crime or of offence of criminal or quasi criminal nature or some act prejudicial to the State or public interest.

The right of the accused to be produced before the nearest Magistrate within a period of 24 hours, enables the arrested person to get a speedy trial.

It can be manifestly concluded that there is close link between constitutional safeguards and criminal justice system. Justice must not only be done but it must be seen to be done at lightning speed. The Constitution has given biggest responsibility to Judiciary to safeguard constitutional principles be it civil or criminal justice system. It cannot be lost sight of that ultimate objective of every legal system is to arrive at the truth, punish the guilty and protect the innocent. The judiciary has to see that innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. Human beings being at the epitome of the infinite process of the divine design in this universe, the term life as embedded in Article 21 must be protected at any cost by the Judiciary be it for the persons who have been alleged for commission of crime. Law must have a human face. At the end only ultimate justice prevail which is the conscience of the Constitution. The justice system must have compassionate outcome.

Written by: Prahalad Prasad.
Men's Right Activist,
Founding Member, SIF-Jharkhand.

Activism Photograph

Activism Photograph

Unleashing of legal terrorism by misuse of Section 498-A of IPC, Section 3/4 of D.P. Act, Domestic Violence Act and looking beyond Arnesh Kumar judgment.

Analyzing different aspects of misuse of Section 498-A of IPC, Section 3/4 of Dowry Prohibition Act, Domestic Violence Act one cannot explain the acrimony that people have suffered and the pain and suffering that people have experienced and are experiencing cannot be just described in words. The protracted false cases have taken a toll on people lives and fruitful productive years of their lives that have been wasted and are being wasted for no fault of them but because of abuse and misuse of laws by few sections of women, have finally sublime into their firm determination to stand up against the draconian law that has done more harm than justice and has destroyed reverent institution of marriage and family life. Sooner the Govt. realizes this, it would be able to save Indian Family life or else the draconian law would itself conspire to destroy Indian family life over the years.

Discussion: Section 498A

This poorly and vaguely formulated law is inviting women to file false cases and causing the imprisonment of innocent husband, his family members and his old parents. They are put behind the bar along with other criminals. These innocent people undergo stigmatization and emotional trauma even before the trial in the court of law, which leads to emotional physical and financial torture. Some of the falsely accused have committed suicide after being jailed, unable to bear the social stigma and due to helplessness these innocent families have no option but to commit suicide. Such false accusations must be checked at root level. Men too are victims of domestic violence, but there are no legal remedies available to them. Malimath Committee recommended that law must be modified to protect such innocent people, in order to stabilize the foundation of Indian family system.

When marriage is on the brink of the divorce, because of any reason mainly compatibility issue, wife finds no better weapon to harass her husband and in-laws than Section 498A. She blackmails them and coerces them to fulfill her unlawful demands by threatening of filing 498A. More so, when a modern woman is unable to adjust with her in-laws, and also find it difficult to dominate her husband, she often files a false case under Section 498A to tune her desires. This is nothing but sheer cruelty. Most of the times, root cause of filing of 498A is not what this section is intended for.

No one should be allowed to unleash frivolous proceedings under the garb of Section 498A. It cannot be assassin's weapons. The stringent dowry laws meant to deter dowry seekers are being increasingly misused by the very people they are meant to protect. It has become a bargaining tool for wives. Such tyranny is not only against husband but his whole family.

Several heart-rending incidences of innocent families being arrested without investigation and put in judicial custody have been reported as news items in various news papers over the years. While section 498A is supposed to be a law protecting women, ironically it harms many more women. For every male accused of 498A, there are multiple women, his mother or sister or relatives are implicated in a crime that never occurred or they never stayed together. If there are more women in the family they too are accused, irrespective of their age, health condition, marital status or their physical proximity to the complainant. There are many news items, where married sisters of the husband even they are pregnant or with a baby in hands are jailed or the entire family is ruthlessly arrested and there are no words to describe the financial hardship and emotional trauma that they have to endure.

Misuse of 498A

Section 498-A of IPC and Sections 3/4 of D.P. Act is most misused section in Indian Criminal Jurisprudence. It has become tool to harass husband and his family members. Since the section is non-bail able/cognizable, the husband and his family members are arrested by Police in most mechanical manner without proper investigation. Even distant relatives of husband are not sparred. It is against natural justice one is proved criminal without going in trial. When bail application is filled in the court, generally, it is the tendency of lower courts while hearing bail pleas to send both the sides to negotiation centre. And there, bargain for money starts by the wife and her parents. Since, the husband is in custody, they become easy prey to such un-scrupulous demands of wife. Section 498-A has also become tool to extract money. The harsh law has become a source of blackmail and harassment of husbands and others. Once a complaint (FIR) is lodged with police under Section 498-A and Section 3/4 of DP Act, it becomes an easy tool in the hands of the Police to arrest or threaten to arrest the husband and other relatives named in the FIR without even considering the intrinsic worth of the allegations and making a preliminary investigation. Section 498-A was introduced in 1983 in IPC to protect married women from being subjected to cruelty by the husband or his relatives. Over the time, spates of reports of misuse of the section by means of false/exaggerated allegations and implication of several relatives of the husband have been pouring in from every corner of the country every year. And the number is on very steep rise.

Misuse of Section 498-A in many cases have been judicially noticed by the Apex Court as well as various High Courts. This has also been taken note by Parliamentary Committee on Petitions (Rajya Sabha). If we read any local daily/newspaper, we will be able to find one news or the other on the misuse of Section 498-A of IPC and D.P. Act.

It would be pertinent and expedient to cite few judgments of Honourable Supreme Court which depicts serious concern on the rise of false cases of Section 498-A.

In Sushil Kumar Sharma v. Union of India, the Supreme Court lamented that in many instances, complaints under Section 498-A were being filed with an oblique motive to wreck personal vendetta and observed, " it may therefore become necessary for the Legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. It was also observed that by misuse of the provision, a new legal terrorism can be unleashed."

In case of Preeti Gupta v. State of Jharkhand, the Supreme Court observed that, " serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases....

The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law....."

Any plausible analysis would not hold well unless we have some statistical data.

It would be worthwhile to refer to data released by National Crime Records Bureau:

It can be easily inferred that the number of cases being filed under Sec 498A of IPC is on the rise and there is roughly a 10% rise in the number of pending cases each year. The number of cases pending trial was around 2.67 lakh at the beginning of 2007. This number increased to 4.66 lakh at the beginning of 2013, a rise of almost 75% in 7 years.

While the number of convictions was more or less close to 7000 cases in each of these 7 years, the number of acquittals increased consistently. From 25791 acquittals in 2007, this number went up to 38165 in 2013. The number of cases withdrawn was more or less equal to the number of convictions in each of these 7 years. For every case that is resulting in conviction, 5 other cases are resulting in acquittal while one other case is being withdrawn. The net result is that only one out of every 6-7 cases is resulting in conviction.

While the number of cases is rising each year, it is surprising to note that the conviction rate is dropping. This could be because of false cases or the failure of the prosecution to prove that the accused were guilty of the offence charged with. The conviction rate of cases under Sec 498A was 21% in 2007 and dropped to 16% in 2013 while the average conviction rate in other IPC crimes remained more or less at 40% each year. In other words, the conviction rate in cases under 498A is less than half of the average conviction rate for all other IPC crimes. In these seven years (2007-2013), the cases registered under Sec 498A were among the bottom in terms of conviction rates. At the same time, this category is in the top list when it comes to number of cases registered.

Cases Filed under 498A and disposed of by Courts

Year	Total cases pending trial up to that year	Convicted	Acquitted	Withdrawn	Total cases remaining at the end of year	Conviction rate of Cases under 498-A	Average Conviction Rate of all IPC crimes
2007	267600	6831	25791	6364	228614	21.2%	42.30%
2008	293416	7710	26637	7310	251759	22.7%	42.60%
2009	323355	7380	29943	7111	278921	19.9%	41.70%
2010	357343	7764	32987	6601	309991	19.6%	40.70%
2011	387690	8167	32171	7477	339902	20.6%	41.10%
2012	426922	6916	39138	8775	372706	14.4%	38.50%
2013	466079	7258	38165	8218	412438	15.6%	40.20%

Nearly 20-25% of all women arrested were booked under Section 498A and this category has seen highest women arrests of all categories consistently from 2007. This category has the highest women to men ratio in terms of arrests in all the years. In the category of the women arrested above 45 years, the incidence of 498A cases is more. This section is being labeled as "Protector of Women" but close analysis proves that females are suffering most by this law that too old, ailing women and unmarried young ladies. Futures of these females become totally dark and they have no option but to end their life to escape stigma of sent to jail.

There is another aspect associated with filing of 498A cases that is high number of suicides by men on account of domestic issues. In 2013 for instance 21,096 men committed suicide because of family problems while 11,229 women committed suicide for the same reason.

The above NCRB data manifestly projects following plausible inferences and end up easily showing blatant misuse of Section 498A and Dowry Prohibition Act 1961:

1. A steep rise in cases registered under Section 498A every year.
2. Conviction rate is very low. Numbers of acquittals have increased consistently. Cases are rising but conviction rate is dropping.
3. More men are committing suicide than women.

Year	Rank of Conviction Rate (Highest Conviction Rate Ranked 1)	Number of categories with lower conviction rate than 498A
2007	21	2
2008	21	2
2009	22	1
2010	23	0
2011	21	2
2012	23	0
2013	23	0

4. Nearly 20-25% women arrested were booked under Section 498A. It means innocent sisters, old aged mothers are being arrested.

Any jurisprudence would always delve upon legal practices that stops the abuse of law. And neither the Legislature nor the Judiciary is exception to it. And since judiciary always realized its duty, in plethora of its judgments it has noticed misuse of Section 498A and D.P. Act. In recent judgment pronounced by Honourable Supreme Court in Arnesh Kumar v. State of Bihar, it appreciated the matter of misuse of Section 498A/Dowry Prohibition Act and gave strict guidelines to follow Section 41 of Cr.P.C. in such cases.

The Honorable Court said,
" The fact that Section 498A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives, the simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. Crime in India 2012 statistics published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for offence under Section 498A of IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Indian Penal Code. It accounts for 4.5% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498A, IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal.....

All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C."

Analysis: Domestic Violence Act

On 13th September 2005, Parliament of India enacted The Protection of Women from Domestic Violence Act 2005 to protect women from domestic voilence. It was brought into force by the Indian government from 26 October 2006. The

Act provides for the first time in Indian law a definition of "domestic violence", with this definition being broad and including not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse.

The Protection of Women from Domestic Violence Act 2005 differs from the provision of the Penal Code - section 498A of the Indian Panel Code - in that it provides a broader definition of domestic violence.

Law maker thought that Domestic Violence Act to be a blessing for people in abusive or violent relationship but, a careful analysis reveals that, this law is yet another misguided attempt to enact legislation to create a society where men are deprived of their rights.

There are three fundamental problems with this law – a) it is overwhelmingly gender biased in favor of women, b) the potential for misuse is astounding and c) the definition of domestic violence is too wide.

The DV act singles out men as perpetrators of domestic violence and assumes that only women are victims. As per this law, only a woman can file a complaint against her male partner. A man, who is a victim of domestic violence, has no rights under this law. By giving sweeping legal powers to women while withholding protection to male victims tantamount to systematic legal victimization of men. In the western world, the domestic violence laws are gender neutral and provide protection to the victims, both men and women. The fact that the Indian version explicitly prohibits any male victim to seek relief under this law defies all logic and is beyond comprehension.

The second significant flaw in this law is that it lends itself to such easy misuse that women will find it hard to resist the temptation to “teach a lesson” to their male relatives and will file frivolous and false cases. If wife demands money from her husband for any reason and then husband is legally bound to pay that amount in full, failing which he can be convicted under the pretext of preventing economic abuse of women, this law legalizes the extortion of money by women. Interestingly, if he asks for money from her, he can be jailed for that as well. Husband can be booked under the DV act if she feels that she has been insulted. Insult is a relative term, which is totally left to her discretion. Interestingly, if she insults and abuses him verbally or even physically, he does not have any legal recourse in this law

These are just some of the ways in which women can exploit men in a legally permitted manner. The fact that the complaint by a woman will be treated, prima facie, as “true and

genuine" opens up a whole new realm of possibilities where innocent men will be accused and implicated in false cases, just because they refuse to give in to her unreasonable demands.

The third major flaw in this law is that it provides an all-encompassing definition of domestic violence and some terms (insults, name calling) are extremely subjective. The radical feminists claim that 70% of women in India face domestic violence which comes as no surprise as even an insult is considered domestic violence. Interestingly, they are mum on how many Indian men suffer domestic violence using the same criteria. This law strikes at the very foundation of marriage by promoting intolerance and litigation for petty domestic disputes. It is universally recognized that from time to time differences arise in a marriage and sometimes people, both men and women, behave in hurtful ways towards each other. Most people, though, are able to work them out and lead a more or less happy life with their loved one. However, this law makes it very easy to escalate the domestic problems in daily life to such a level that it eventually leads to a breakdown in marriage. Once a man has been accused of domestic violence for a something relatively minor (insult), while he might have been subjected to the same treatment from her, he will perpetually feel threatened by his partner and that is the beginning of the end. This law will lead to more divorces, broken homes and the children will pay the ultimate price by getting deprived of a pleasant childhood. There are degrees of domestic violence and not all conflicts in a relationship can be termed as domestic violence. This law trivializes the issue of domestic violence by including minor differences in its realm and by explicitly denying protection to half of the population.

Even different Courts have given their apprehension against misuse of DV Act. Madras High Court Bench has observed that Protection of Women from Domestic Violence Act, 2005 suffers from inherent flaws which tempt women to misuse the provisions and men to dread being prosecuted under the law without any rhyme or reason.

Dismissing a writ petition, Justice S. Vaidyanathan of Madras High Court said: "The notable flaw in this law is that it lends itself to such easy misuse that women will find it hard to resist the temptation to teach a lesson to their male relatives and will file frivolous and false cases. "Now-a-days, filing cases under the Domestic Violence Act by women has become a common one. Therefore, a neutral and an unprejudiced law is needed to protect the genuine victims of domestic

violence irrespective of their gender". The judge also said that a similar trend of misuse was observed in the case of Section 498A (a woman being subjected to cruelty by her husband or his relatives) of the Indian Penal Code. It forced the Supreme Court to term such misuse as "legal terrorism."

Metropolitan Magistrate of Saket Court in New Delhi, Shivani Chauhan, has dismissed the domestic violence complaint of a woman, who resides in south Delhi, saying that she had falsified and concocted various allegations and suppressed important facts in order to harass her husband and her in-laws. The court noted that the complainant woman misused legal provisions as a tool to extort unjustified money from her husband and her in-laws for unjustified personal gain. The court also imposed a cost of Rs. 1 lakh on her as exemplary costs.

The law in its current form is grossly inadequate to tackle the problem of domestic violence. It imposes a lot of responsibility on men, without giving them rights. On the other hand, it gives lots of rights to women without requiring them to be responsible. At the very minimum, it should be made gender neutral, offering protection to both men and women. Also, provisions for stringent punishments need to be incorporated into the law to prevent misuse. Moreover, the law needs to be made more practical by differentiating between various degrees of conflicts and by unambiguously defining what constitutes domestic violence.

The fact is domestic violence is a serious problem and a gender neutral and unprejudiced law is needed to protect the genuine victims of domestic violence, irrespective of gender. The perpetrators of domestic violence need to be appropriately punished and dealt with. At the same time, protection cannot be withheld from real victims for any reason whatsoever, least of all their gender. One can be certain that there is something sinister about a law, when it intimidates and instills fear in innocent people. When a person who has not committed any crime, begins to fear punishment under the provisions of a law, it is not a law anymore – it is state sponsored terrorism.

DV act was enforced around 22 years after Section 498A. Question is whether 498A is not effective, so another section has been introduced, which covers physical, sexual and even verbal abuses. It shows that on one hand lawmaker think that Section 498A is not effective tool on the hand of females so Domestic violence act was introduced. Then logically after enforcement of domestic Violence act, 498A should have scrapped as law makers also think that this section is not adequate.

Now the solemn responsibility lies on the Govt/Legislature to take into consideration the pragmatic realities that necessitates making necessary changes in relevant provision of law where misuse of statute is so apparent. Any democratic society that calls itself precursor of rule of law must make law immune to its misuse.

It is impeccable need of the hour to look beyond Arnesh Kumar judgment, in order to control the misuse of Section 498A, D.P. Act and D.V. Act, we demand following immediate changes in the statute from the Govt i.e. the legislature:

1. Making Section 498-A and Section 3/4 of D.P. Act, bailable sections and these sections must be compoundable as they emanate from domestic tiff.

2. Making these sections non-cognizable, FIR can only be registered after due investigation and permission from the magistrate.

3. No arrest of old aged parents and family members of husband.

4. Gender neutral law. Wife also perpetrates cruelty on husband and his parents, there are so many instances that are reported daily, so a new section Section 498-B to counter this menance should be brought in IPC at par with Section 498-A.

5. Dowry givers must also be punished. They must not be excused under the grab of gender biased law.

6. Making domestic Violence act as gender neutral.

7. Provision in DV Act for mother-in-laws to file cases against their daughter-in-laws if they are subjected to inhuman treatment in hand of their daughter-in-laws.

Written by: Sameer Kumar Jha.
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Founding Member, SIF-Jharkhand.

"The end of law is not to abolish or restrain, but to preserve and enlarge freedom."

"Justice is the greatest interest of man on earth. It is the ligament which holds civilized beings and civilized nations together."

कविता

तुम और मैं पति पत्नी थे
तुम माँ बन गई मैं पिता रह गया।

तुमने घर सम्भाला, मैंने कमाई
लेकिन तुम ''माँ के हाथ का खाना'' बन गई,
मैं कमाने वाला पिता रह गया।

बच्चों को चोट लगी और तुमने गले लगाया,
मैंने समझाया
तुम ममतामयी माँ बन गई मैं पिता रह गया।

बच्चों ने गलतियां करी, तुम पक्ष ले कर
''Understanding Mom'' बन गई और मैं
''पापा नहीं समझते'' वाला पिता रह गया।

''पापा नाराज होंगे'' कह कर तुम बच्चों की
बेस्ट फ्रेंड बन गई और मैं गुस्सा करने वाला पिता
रह गया।

तुम्हारे आंसू में माँ का प्यार और मेरे छुपे हुए
आंसूओं मे मैं निष्ठुर पिता रह गया।

तुम चण्द्रमा की तरह शीतल बनतीं चली गई
और पता नहीं कब मैं सूर्य की अग्नि सा पिता
रह गया।

तुम धरती माँ, भारत मां और मदर नेचर बनतीं
गई और मैं जीवन को प्रारंभ करने का दायित्व
लिए सिर्फ एक पिता रह गया।

सभी प्रेमल पिताओं को सादर समर्पित ।

~ रमेश पाठक (उपाध्यक्ष)
Men's Rights Activist

मैं उस देश का वासी हूँ ,
जहाँ कानू' अंधा है ।
जहाँ इंसाफ के नाम पे चलता ,
अवैध वसूली का धंधा है ।
दस ,बीस ,पचास में भी ,
जहाँ इमान बिकते हैं ।
मरी हुई जमीर के आगे ,
बेवश इंसान दिखते हैं ।
रुफर्जी शोर मचाता है ,
रुसत्य ठिठक रह जाता है ।
जैसे जब कुत्ते भौंकते हैं ,
तो हाथी मौन रह जाता है ।
मुझे मालूम नहीं कुछ भी ,
मिलेगी कब मंजिल मेरी ।
लेकिन मैं बढ़ते जाउंगा ,
दिखेगी बूरी नियत तेरी ।
कुछ उच्च पदासीन भी ,
बन बैठे कलियुगेश्वर ।
जिनके फैसले के आगे ,
शर्मिंदा हो जाएं परमेश्वर ।
जो पवित्र रिश्ते को भी ,
व्यवसाय बना डाला ।
सशक्तिकरण के नये अध्याय से ,
नैतिकता को लज्जित कर डाला ।
जब न्याय मांगों तो ,
वहाँ तारीखें मिलती हैं ।
फरेबियों का बोलबाला है ,
नई -नई सीखें मिलती हैं ।
हर बात के पहले ,
जहाँ पर लगता चंदा है ।
नहीं यह नई कहानी है ,
नित -दिन का धंधा है ।
मैं उस देश का वासी हूँ ।,
जहाँ कानू' अंधा है।

~ अमरजीत कुमार Men's Rights Activist

In Arnesh Kumar vs. State of Bihar 2014, the Honourable Supreme Court gave following directions:

(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.P.C.;

(2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention.

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing.

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial magistrate concerned shall be liable for departmental action by the appropriate High Court.

The Court added that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

The Court also directed that a copy of this judgment be forwarded to the Chief Secretaries as also the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.

Right of an accused to cross examine witness with reference to Section 145 of the Indian Evidence Act.

The law of evidence plays pivotal role in dispensation & administration of justice and occupies an important position in the field of substantive & procedural laws. It is only through law of evidence that substantive rights are established in the court of law. The promotion of accuracy in the adjudication process is the main objective meant to be achieved by law of evidence. The Indian Evidence Act, 1872 applies to all judicial proceedings whether be it civil or criminal or a Court-martial (other than the Courts-martial held under the Specified Acts). The law of evidence is sine-qua-non for the working of entire judicial system. The extent of law of evidence is vast, however here in this article we are only concerned with the right of an accused to cross examine a witness with reference to Section 145 of the Indian Evidence Act.

The rules of evidence as laid down in Section 145 is of paramount importance to legal practitioners. Contradictions in the previous statements in writing of a witness are a very powerful weapon in the hands of the adverse party. A contradiction may be such as to demolish the case made out in the examination-in-chief. Contradictions play a vital role in criminal trials. The expression 'contradiction' was a subject of great legal controversy. The question was whether it refers only to direct contradiction or whether it includes 'omissions' also. It has been settled by the Apex Court that contradictions would also include omissions. There may be direct contradictions or contradictions by omissions. Sometimes the term 'improvements' is used to denote the effect of contradictions and omissions. A witness may improve his version about an incident in order to support the prosecution case. It is to meet this contingency that Section 162 of the Criminal Procedure Code read with Section 145 of the Evidence Act provides for proof of contradictions and omissions. The proof is in two stages. In the first stage, the contradiction as brought on record in the manner laid down in Section 162 of the Criminal Procedure Code and Section 145 of Evidence Act, which is not enough. The contradiction needs to be proved. Except when the witness has admitted the contradiction, this is done by cross examining the Police Officer who has recorded the statements under Section 162 of the Criminal Procedure Code. If this is not done, the contradictions brought on record have no effect at all.

Section 145: Cross-examination as to previous statements in writing: "A witness may be cross examined as to previous statements made by him in writing or reduced into writing and relevant to matters in question, without such writing

being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."

Section 145 of the Evidence Act indicates the manner in which contradiction is to be brought out. The cross examining counsel shall put the part or parts of the statement which affirms the contrary to what is stated in evidence. Section 145 stipulates:

1. Witness can be cross examined as to previous statement statements in writing or reduced into writing.
2. These writings need not be shown to the witness or proved beforehand
3. But if the intention is to contradict them by the writings,
4. (a) their attention must be drawn to those parts which are to be used for contradiction
   (b) by drawing attention of witness to contrary parts of his previous statements witness may avail opportunity of explaining statement made previously.

It is manifest that first part of this section deals with cross-examination other than by way of contradiction and the second part by way of contradiction only. It is not possible to invoke the second part without putting questions under the first. Section 145 gives the right to cross-examine a witness on previous statements made by him and reduced to writing, when these previous statements are relevant to the matter in issue. A witness may be questioned as to his previous written statements for two purposes:

(a) It may be to test his memory; and the very object would be defeated if the writing were placed in his hand before the questions were asked,
(b) or it may be to contradict him; and here it would be obviously unfair not to give him every opportunity of seeing how the matter really stands.

In a criminal trial, statements of witnesses are recorded by the Police under Section 161 of the Cr. P.C., copies of which are supplied to the accused under Section 207 of Cr.P.C. These statements can be used by the accused for proving contradictions as laid down in Sec. 162 Cr. P.C.

Under Section 161 of Cr.P.C., a police officer making an investigation can examine the person acquainted with the facts of the case, and reduce the statement made by such person into writing.

The principle embodied in Section 162 of Cr.P.C. ensures that no statement made to the police which is reduced to writing and signed by the person who makes it

and that no such statement or any record of such a statement, whether in a police diary or otherwise or any part of such statement or record shall be used for any purpose other than those stated in the section. They may be used by the accused or by the prosecution to contradict such witness in the manner as provided in Section 145 of the Indian Evidence Act, and when it is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination. It means that statements made to the police can be used for contradicting a prosecution witness in the manner indicated in Section 145 of the Evidence Act. ***They cannot be used for corroboration of the evidence of a witness in court.*** In a murder case, the Sessions Judge used and relied upon the case diary statements for corroboration version, it was held that statements given to the police during investigation cannot be used as substantive evidence; they can only be used for raising suspicion against credibility of the witness. Such a statement cannot be used for contradicting the statement of another person. The limited use of such statement is to contradict the maker of it.

Section 207 of Cr. P.C. provides for furnishing to the accused relevant documents or extracts from them, in cases where proceeding has been instituted on a police report, so that the accused is able to know the charge brought against him and the materials by which the charge is going to be substantiated by the prosecution. It is the duty of the Judicial Magistrate to furnish to the accused without delay and free of cost the copy of (1) the police report; (2) the FIR; (3) statements of witness recorded under section 161 (4) statements or confessions recorded u/s 164 and (5) any other document on which the prosecution wants to rely or extracts therefrom.

The question that arises how the accused confronts the previous statement made by a witness in the course of an investigation to establish the contradiction in the evidence given by the witness in the trial. In order to bring on the record omission or contradiction for the purpose for the purpose of impeaching the credit of a witness it is incumbent upon the cross examiner to draw the attention of the witness i.e. the author of the statements towards his said previous statement alleged to be contradicted. It is necessary that the witness has to be confronted first to his previously recorded statement, on that matter.

Section 145 of the Evidence Act has to be read with section 162 of the Cr.P.C. and clearly indicates that the attention of a witness is to be called to the previous statement before the writing can be proved. If the witness admits the previous or explains any discrepancy or contradiction, it becomes un-necessary for the statement thereafter to be proved. On the other hand, if the statement still requires to be proved that can be done by calling the person before whom the statement was

made. ***A statement made by a witness to a police officer in the course of an investigation can be used only to contradict him in the manner provided in Section 145 and for no other purpose.*** The attention of the witness must be drawn to those parts of his statement before the police by which it is sought to contradict him and he must be given a clear opportunity to explain the inconsistency. The whole of his statement before the police does not become admissible in evidence, but only those part of it to which his attention has been called and, therefore, that part alone should be exhibited or admitted into evidence.

Section 145 indicates one of the modes in which the credit of a witness may be impeached. An analysis of Section 145 of the Evidence Act shows that this section permits cross examination of the witness in any trial, with reference to his previous statement, to establish a contradiction and the manner in which such contradictions can be established. It can be safely concluded that it is the right of a party in a trial to use the previous statements of a witness either for the purpose of establishing a contradiction in his evidence or for the purpose of impeaching the credit of the witness.

The object of section 145 is either to test the memory of a witness or to contradict him by previous statements in writing. Such writing may be documents, letters, depositions, police diaries, etc. It must be noted that the previous record should be in writing. The witness may also be contradicted by his previous verbal statements. A witness may be questioned as to his previous written statements for two purposes: it may be to test his memory and the very object would be defeated if the writing were placed in his hand before the questions were asked, or it may be to contradict him and here it would be obviously unfair not to give him every opportunity of seeing how the matter really stands. The section is attracted only when two contradictory statements are made by the same witness and not when the statement of one witness is contradicted by another witness. A witness can be contradicted only when he denies his statement and not when admits it.

In case of accepting illegal gratification, the statement of complainant was recorded on compact disc during an interview. Permission was sought to contradict the evidence given by complaint by confronting the complainant with his statement recorded on compact disc. When trial court refused permission to the defense on ground that the said statement could not be treated as previous statement for purpose of cross examination, the said refusal was held to be improper. However, it was held that the compact disc to be used for the purpose of confronting the witness must fulfill the necessary requirements of being primary evidence.

It would be apposite to refer to judicial exposition regard being had to the explanation of Section 145 of the Evidence Act.

In **Bhagwan Singh v. State of Punjab1952**, the Honourable Supreme Court described the procedure to be followed to contradict a witness under Section 145 of the Evidence Act, "Resort to Section 145 would only be necessary if the witness denies that he made the former statement. In that event, it would be necessary to prove that he did, and if the former statement was reduced to writing, then section 145 requires that his attention must be drawn to those parts which are to be used for contradiction. But that position does not arise when the witness admits the former statement. In such a case all that is necessary is to look to the former statement of which no further proof is necessary because of the admission that it was made."

In Tahshildar Singh And Another v. State of UP 1959, the Constitution Bench of the Apex Court held that, "It is unnecessary to refer to other cases wherein a similar procedure is suggested for putting questions under s. 145 of the Indian Evidence Act, for the said decision of this Court and similar decisions were not considering the procedure in a case where the statement in writing was intended to be used for contradiction under s. 162 of the Code of Criminal Procedure. Section 145 of the Evidence Act is in two parts: the first part enables the accused to cross-examine a witness as to previous statement made by him in writing or reduced to writing to without such writing being shown to him; the second part deals with a situation where the cross- examination assumes the shape of contradiction: in other words, both parts deal with cross-examination; the first part with cross-examination other than by way of contradiction."....

"The procedure prescribed is that, if it is intended to contradict a witness by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him. The proviso to s. 162 of the Code of Criminal Procedure only enables the accused to make use of such statement to contradict a witness in the manner provided by s. 145 of the Evidence Act. It would be doing violence to the language of the proviso if the said statement be allowed to be used for the purpose of cross-examining a witness within the meaning of the first part of s. 145 of the Evidence Act. Nor are we impressed by the argument that it would not be possible to invoke the second part of s. 145 of the Evidence Act without putting relevant questions under the first part thereof. The difficulty is more imaginary than real. The second part of s. 145 of the Evidence Act clearly indicates the simple procedure to be followed. To illustrate: A says in the witness-box that B stabbed C; before the police he had stated that D stabbed C. His attention can be drawn to that part of the statement made before the police which contradicts his statement in the witness-box. If he admits his previous

statement, no further proof is necessary; if he does not admit, the practice generally followed is to admit it subject to proof by the police officer. On the other hand, the procedure suggested by the learned Counsel may be illustrated thus: If the witness is asked "did you say before the police-officer that you saw a gas light ? " and he answers " yes ", then the statement which does not contain such recital is put to him as contradiction. This procedure involves two fallacies: one is it enables the accused to elicit by a process of cross-examination what the witness stated before the police-officer. If a police-officer did not make a record of a witness's statement, his entire statement could not be used for any purpose, whereas if a police-officer recorded a few sentences, by this process of cross examination, the witness's oral statement could be brought on record. This procedure, therefore, contravenes the express provision of s. 162 of the Code. The second fallacy is that by the illustration given by the learned Counsel for the appellants there is no self-contradiction of the primary statement made in the witness-box, for the witness has yet not made on the stand any assertion at all which can serve as the basis. The contradiction, under the section, should be between what a witness asserted in the witness-box and what he stated before the police-officer, and not between what he said he had stated before the police-officer and what he actually made before him. In such a case the question could not be put at all: only questions to contradict can be put and the question here posed does not contradict it leads to an answer which is contradicted by the police statement. This argument of the learned Counsel based upon s. 145 of the Evidence Act is, therefore, not of any relevance in considering the express provisions of s. 162 of the Code of Criminal Procedure."…..

"Contradict" according to the Oxford Dictionary means to affirm to the contrary. Section 145 of the Evidence Act indicates the manner in which contradiction is brought out. The cross-examining Counsel shall put the part or parts of the statement which affirms the contrary to what is stated in evidence. This indicates that there is something in writing which can be set against another statement made in evidence. If the statement before the police-officer-in the sense we have indicated-and the statement in the evidence before the Court are so inconsistent or irreconcilable with each other that both of them cannot co-exist, it may be said that one contradicts the other.

It is broadly contended that a statement includes all omissions which are material and are such as a witness is expected to say in the normal course. This contention ignores the intention of the legislature expressed in s. 162 of the Code and the nature of the non-evidentiary value of such a statement, except for the limited purpose of contradiction. Unrecorded statement is completely excluded. But recorded one is used for a specified purpose. The record of a statement, however

perfunctory, is assumed to give a sufficient guarantee to the correctness of the statement made, but if words not recorded are brought in by some fiction, the object of the section would be defeated. By that process, if a part of a statement is recorded, what was not stated could go in on the sly in the name of contradiction, whereas if the entire statement was not recorded, it would be excluded. By doing so, we would be circumventing the section by ignoring the only safeguard imposed by the legislature, viz., that the statement should have been recorded."

It has been held by **Honourable Supreme Court in Charanjit v. State of Punjab 2013**,"11. We have considered the contention of Mr. Parekh on behalf of the appellants that PW-3 has sought to falsely implicate the appellants on account of her close links with the terrorists and on account of the pressure from the terrorists, but no evidence as such has been led on behalf of the defense to show that PW-3 has implicated the appellants under the influence of the terrorists. Mr. Parekh relied on Ext.DW-1/B dated 09.02.1989 said to have been signed by 32 villagers in which it is stated that the villagers believe that terrorists were frequenting the house of PW- 3 and staying in her house and taking their meals and, therefore, PW-3 should be brought and interrogated about those terrorists, but Ext.DW-1/B is no proof of the fact that PW-3 has made the allegations of rape against the appellants on the pressure of the terrorists. We have also considered the submission of Mr. Parekh that PW-3 had herself given a statement in the inquiry conducted by the Superintendent of Police, Mr. Harbhajan Singh Bajwa, that she had made the complaint against the appellants at someone's instigation and she does not want any action to be taken on her complaint. This statement of PW-3 is not substantive evidence before the Court and at best can be treated as a previous statement to contradict the substantive evidence of PW-3 given in Court. Section 145 of the Indian Evidence Act states that a witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him. In the cross-examination of PW-3, a question was put whether S.P. Mr. Harbhajan Singh Bajwa conducted the inquiry and recorded her statement and she has stated that he did conduct an inquiry but she does not know what he had recorded. She has further stated that her signatures were obtained on the statement but she knew only how to write her name and cannot read or write Punjabi except appending her signatures. In view of the aforesaid statement made by PW-3 in her cross- examination, her statement recorded in the inquiry conducted by S.P. Mr. Harbhajan Singh Bajwa cannot be used to contradict the evidence of PW-3 given in Court.

12. We have also considered the submission of Mr. Parekh that in the petition dated 13.02.1989 to the Governor (Ex.PW-3/A), PW-3 had not mentioned that PW-1 and PW-2 were present when she was released at the intervention of the Panchayat of village Paili, OtalMajarh and Unaramour on 10.02.1989. This statement of PW-3 in the petition dated 13.02.1989 is not substantive evidence before the Court and can only be treated as a previous statement to contradict the substantive evidence of PW-3 given in Court by putting a question to PW-3 in course of her cross-examination under Section 145 of the Indian Evidence Act. If such a question was put in the cross-examination, PW-3 would have got an opportunity to explain why she had not specifically stated in the petition dated 13.02.1989 to the Governor (Ex.PW-3/A) that her husband (PW-1) and the neighbour (PW-2) were also present when she was released at the intervention of the Panchayat of village Paili, OtalMajarh and Unaramour on 10.02.1989. In absence of any such question put to PW-3 in her cross-examination, the omission of the names of PW-1 and PW-2 in the petition dated 13.02.1989 to the Governor (Ex.PW-3/A) cannot be taken as contradictory to the evidence of PW-3. Hence, the evidence of PW-3 as well as that of PW-1 and PW-2 that on 10.02.1982, PW-1 and PW-2 were present when PW-3 was released at 4.30 p.m. could not have been disbelieved by the Court."

In **Raj Kishore Jha v. State of Bihar 2003**, it was held by Honourable Supreme Court, "The question of contradicting evidence and the requirements of compliance with Section 145 of the Evidence Act has been considered by this Court in the Constitution Bench decision in the case of Tahsildar Singh v. State of U.P., AIR (1959) SC 1012. The Court in the aforesaid case was examining the question as to when an omission in the former statement can be held to be a contradiction and it has also been indicated as to how a witness can be contradicted in respect of his former statement by drawing particular attention to that portion of the former statement. This question has been recently considered in the case of Binay Kumar Singh v. State of Bihar, [1997] 1 SCC 283 and the Court has taken note of the earlier decision in Bhagwan Singh v. State of Punjab, AIR (1952) SC 214 and explained away the same with the observation that on the facts of that case there cannot be a dispute with the proposition laid down therein. But in elaborating the second limb of Section 145 of the Evidence Act it was held that if it is intended to contradict him by the writing his attention must be called to those parts of it which are to be used for the purpose of contradicting him. It has been further held that if the witness disowns to have made any statement which is inconsistent with his present stand, his testimony in Court on that score would not be vitiated until the cross-examiner proceeds to comply with the procedure prescribed in the second

limb of section 145 of the Evidence Act. The aforesaid position was indicated in Rajender Singh and Ors. v. State of Bihar, [2000] 4 SCC 298."

In **Binay Kumar Singh v. State of Bihar1997**, it has been held "The credit of a witness can be impeached by proof of any statement which is inconsistent with any part of his evidence in court. This principle is delineated in Section 155(3) of the Evidence Act and it must be borne in mind when reading Section 145 which consists of two limbs. It is provided in the first limb of Section 145 that a witness may be cross-examined as to the previous statement made by him without such writing being shown to him. But the second limb provides that "if it is intended to contradict him by the writing his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him." There is thus a distinction between the two vivid limbs, though subtle it may be. The first limb does not envisage impeaching the credit of a witness, but it merely enables the opposite party to cross-examine the witness with reference to the previous statements made by him. He may at that stage succeed in eliciting materials to his benefit through such cross-examination even without resorting to the procedure laid down in the second limb. But if the witness disowns having made any statement which is inconsistent with his present stand his testimony in Court on that score would not be vitiated until the cross-examiner proceeds to comply with the procedure prescribed in the second limb of Section 145."

In view of the principles of law as articulated by Section 145 of the Evidence Act and various decisions rendered by the Apex Court makes it clear the object and dispel the cloud cast that an accused in a criminal trial has the right to make use of the previous statements of a witness including the statements recorded by the investigating agency during the course of an investigation for the purpose of establishing a contradiction in the evidence of a witness or to discredit the witness.

Reference:

1. Cr.P.C. Bare Act.
2. Criminal Procedure: Ratanlal & Dhirajlal
3. Indian Evidence Bare Act
4. The Law of Evidence: Ratanlal & Dhirajlal
5. https://judis.nic.in

The views of the author are his personal views.

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Right to Bail: Bail Jurisprudence in India

The Preamble of Universal Declaration of Human Rights stipulate:

"Whereas, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,…"

Briefly some of the main human rights incorporated in the Declaration are"

- Right to life, liberty and security of person,
- Right to be not be held in slavery or servitude,
- Right against subjection to torture or to cruel, inhuman or degrading treatment or punishment,
- Right of equality before law,
- Right against arbitrary arrest, detention or exile,
- Right to have equality to a fair and public hearing in civil or criminal matters,
- Right to be presumed innocent until proved guilty according to law,
- Right to be not held guilty under expost facto penal law,….

It is manifest that the above Declaration is solid political statement on human rights. The concept of human rights widely represents an attempt to protect the individual from oppression & injustice. The Declaration has exercised tremendous influence and has provided basis for several international conventions on human rights and inspired constitution of many nations. Indian Constitution too has been greatly influenced by the Declaration. It is to be noted that many of the rights incorporated in the Declaration are enshrined in the Preamble, Part III i.e. Fundamental Rights & Part IV i.e. Directive Principles of State Policy.

In all its manifestations & connotations human liberty is a priceless treasure for a human being. Honorable Supreme Court states that "liberty is founded on the bedrock of the constitutional right and accentuated further on the human rights principle. It is in fact grammar of life. It is most prized thing. The sanctity of liberty is the fulcrum of any civilized society. It is cardinal value on which the civilization rests. It cannot be allowed to be paralyzed and immobilized. Deprivation of liberty of person has enormous impact on his mind as well as body. A democratic body polity which is wedded to the rule of law, anxiously guards' liberty."

Right to life & personal liberty:

The personal liberty is sought to be ensured by Our Constitution by means of a twofold guarantee:

(1) Article 21, Protection of life and personal liberty: No person shall be deprived of his life or personal liberty except according to the procedure established by law.

(2) Article 22, Protection against arbitrary arrest and detention: (a) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. (b) No such person shall be denied the right to consult, and to be defended by, a legal practitioner of his choice. (c) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

In order to understand the development & interpretation of concept of Right to life & personal liberty in Indian Jurisprudence, it is important to refer the view taken by Honourable Supreme Court in the case of A.K. Gopalan v. State of Madras 1950. Here in this case, the majority view was that by adopting the expression "procedure established by law', Article 21 of the Constitution had embodied the English concept of personal liberty in preference to that of American "Due Process". But according to the minority view, the result of such interpretation was to throw the most important fundamental right to life and personal liberty at the mercy of legislative majorities. In A.K. Gopalan case it was held that there is no safeguard for personal liberty under our Constitution besides Article 21, such as natural law or common law. In the result, when personal liberty is taken away by a competent legislation, the person affected can have no remedy.

However, with the development of constitutional law over the years, the minority view taken in A.K. Gopalan case became the majority view in Maneka Gandhi v. Union of India 1978. By majority, the Apex Court in Maneka Gandhi case held:

(I) that Articles 21 & 19 were not mutually exclusive, they had to be read together and so the procedure affecting any of the rights had to be reasonable;

(ii) that the procedure established by law in Article 21 must conform to Article 14 as well,

(iii) that the word procedure in Article 21 in itself meant right and just and fair procedure and not arbitrary, fanciful or oppressive and any procedure which was not right, just and fair was no procedure at all, and failed to meet the standard of Article 21. The court stated that 'the procedure' in Article 21 must not be arbitrary, fanciful or oppressive; otherwise it would be no procedure at all and the requirement of Article 21 would not be satisfied. Once the test of reasonableness is imported to determine the validity of law depriving a person of his liberty, it

follows that such law shall be invalid it is violates the Principles of Natural Justice. The court held that the Right to life means something more than survival or animal existence and would include Right to life with human dignity.

Since the judicial exposition in Maneka Gandhi case, Article 21 has emerged as the Indian version of American concept of due process of law and has become source of many substantive rights and procedural safeguards to people. Maneka case, has positively impacted administration of criminal justice in the country. It has given new dimensions to criminal jurisprudence in the country. It evolved many substantive rights like right to speedy and fair trial, right to legal aid, right against solitary confinement, right against bar felters and handcuffing, right against custodial violence, right to hearing, right of appeal from judgment of conviction.

Administration of criminal justice ensues protecting the rights enshrined in the Constitution of the country. The prison conditions in the country are in bad shape, police brutality and custodial deaths are very common. People languish in jails for years for want of bail. The poor prisoners have no surety to pay for their bail bond, hence they stay in prisons for longer period than they are supposed to stay. The outcome of Maneka case has given more compassion to administration of justice in the country. It has given humanistic approach in criminal justice system. The prisons in the country are overcrowded with under trials. The under trials in most prisons comprise more than fifty percent of the prison population, in some prisons the percentage is even more than seventy percent. The most dreadful aspect of criminal justice system in the country is long incarceration of prisoners in jail pre trial. The pertinent question that crops up why prisoners languish in jails for so long, is there no law to help them. It is in this background it is important to understand the legal provisions as to bail.

Meaning of bail and legal provisions in Cr.P.C.:

Bail is usually referred to the release of a person charged with an offence, on his providing a security that will ensure his presence at the time and place designated and submit himself to the jurisdiction and judgment of the court. The provisions of bail are enumerated in Code of Criminal Procedure. Although the Code does not define bail, it categorizes offences into two categories bailable offences non-bailable offences. In case of bailable offences, the grant of bail becomes right of the accused and is just a matter of procedure. Section 2(a) of Cr. PC. states bailable offence means an offence which is shown as bailable in the First Schedule or which is made bailable by any other law for the time being in force and non-bailable offence means any other offence.

Section 167 Procedure when investigation cannot be completed in twenty four hours.- .....Provided that,-

(a) the Magistrate may authorise the detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,

(I) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter:].....

It is crystal clear in the said section that if the accused who is arrested and is taken into judicial custody be released on statutory bail if the police fails to complete investigation and submits the charge sheet within ninety days in case of offences charged is punishable with death, imprisonment for life or imprisonment for a term of not less than ten years; or within sixty days in case of any other offence.

The provisions as to bail and bailbonds are found in Chapter XXXIII of Cr.P.C. corresponding sections 436 to 450.

Section 436 of the code deals with bail in case of bailable offences.

Section 436A Maximum period for which an under trial prisoner can be detained was inserted in the Code by amendment in 2005. It states that where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one half of the maximum period of imprisonment specified for that offence under that law, shall be released by the court on his personal bond with or without sureties.

Section 437 of the Code stipulate when bail may be taken in case of non-bailable offence.

The provision as to anticipatory bail lies in Section 438 of the Code; where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that the court may, after taking into consideration, inter alia, the following factors, namely

(I) the nature and gravity of the accusation;
(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
(iii) the possibility of the applicant to flee from justice; and
(iv) where the accusation has been made with the object of injuring or humiliating
the applicant by having him so arrested either reject the application forthwith or issue an interim order for the grant
of anticipatory bail:

Section 439 of the Code gives special powers to High Court & Session Court regarding bail.

Section 440 of the Code stipulate about the amount of Bond and reduction thereof.-(1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The High Court or Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

The order for bail must be speaking order even if it is rejection. That the Competent Courts allowing bail either regular or anticipatory under the Code passes discretionary order as to value of surety required to execute bail bond from case to case basis. The Code does not mention the amount of security that is required to be executed by the accused to secure his release. It is the discretion of the courts to order the value of the bail bond to be executed. Ironically courts in India are not sensitive to the social & monetary status of the accused. Whenever any person arrested by police approaches the court to release him on bail, it isbounden duty of court to decide his bail application at the earliest by a reasoned order. But in most cases, the bail applications are disposed in mechanical manner not being sensitive to the right of the accused. The Courts in most cases demand high value of bail bonds to be executed to secure release as a result of which most prisoners are unable to furnish such high value bail bonds and languish in jails for years.

Judicial Exposition:

In State of Rajasthan v. Balchand 1977, speaking for the Bench, Justice V R Krishna Iyer said, "while the system of pecuniary bail has a tradition behind it, the time has come for rethinking on the subject. It may well be that in most cases not monetary suretyship but undertaking by relations of the petitioner or organization to which he belongs may be better and more socially relevant."

As also pointed out in Moti Ram & Ors v. State of MP 1978, the Apex Court observed, "..in the other he is deprived of his liberty without trial and conviction and this leads to grave consequences, namely (1) though presumed innocent he

is subjected to the psychological and physical deprivations of jail life; (2) he loses his job, if he has one and is deprived of an opportunity to work to support himself and his family with the result that burden of his detention falls heavily on the innocent members of the family, (3) he is prevented from contribution to the preparation of his defense; and (4) the public exchequer has to bear the cost of maintaining him in jail

In Abdul RehmanAntulayv. RS Nayak, the Apex Court while holding that speedy trial at all stages is part of right under Article 21, it was held that if there is violation of right to speedy trial, instead of quashing the proceeding, a higher court can direct conclusion of proceedings in a fixed time.

In Prahlad Singh Bhati v. NCT Delhi 2001, the Apex Court thus opined:

(*a*) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(*b*) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(*d*) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

In Bhim Singh v. Union of India, the Apex Court observed that Central Government must take steps in consultation with the State Governments in fast tracking all types of criminal cases so that criminal justice is delivered timely & expeditiously. In the same case in a further order it was noticed that more than 50% of the prisoners in various jails are under trial prisoners. In spite of incorporation of Section 436A in Cr.Pc. under trial prisoners continue to remain in prisons in violation of the mandate of the said section. Accordingly, this court directed jurisdictional Magistrate/Chief Judicial Magistrate/Session judge to hold one sitting in a week in each jail/prison for 2 months for effective implementation of Section 436A. It was noted that 67% of the prisoners in the jails were under trials prisoners.

In Hussainara Khatoon v. State of Bihar 1979, the Apex court said "It is an essential ingredient of reasonable, fair and just procedure

to a prisoner who is to seek his liberation through the court's process that he should have legal services available to him. The Court also held that detention in jail of the under trial prisoners for periods longer than the maximum term for which they would have been sentenced, if convicted, is totally unjustified and in violation of the fundamental right to personal liberty under Article 21."

The Apex Court very recently in Hussain v. Union of India 2017 has issued following directives, "27. To sum up:

(i) The High Courts may issue directions to subordinate courts that –
(a) Bail applications be disposed of normally within one week;
(b) Magisterial trials, where accused are in custody, be normally concluded within six months and sessions trials where accused are in custody be normally concluded within two years;
(c) Efforts be made to dispose of all cases which are five years old by the end of the year;
(d) As a supplement to Section 436A, but consistent with the spirit thereof, if an
under trial has completed period of custody in excess of the sentence likely to be awarded if conviction is recorded such under trial must be released on personal bond. Such an assessment must be made by the concerned trial courts from time to time;
(e) The above timelines may be the touchstone for assessment of judicial performance in annual confidential reports. (emphasis added)
(ii) The High Courts are requested to ensure that bail applications filed before them are decided as far as possible within one month and criminal appeals where accused are in custody for more than five years are concluded at the earliest;
(iii) The High Courts may prepare, issue and monitor appropriate action plans for the subordinate courts; .."
(iv) The High Courts may monitor steps for speedy investigation and trials on administrative and judicial side from time to time;
(v) The High Courts may take such stringent measures as may be found necessary in the light of judgment of this Court in Ex. Captain Harish Uppal."

Bail and not jail is the norm but reality seems opposite

A very terrible aspect of the system of criminal justice is long pre-trial incarceration of the accused persons. The poor prisoners have to stay in jail awaiting trial because there is no one to post bail for them. It is big shame for the law which keeps people in jail for years on end without trial.

Any procedure which keeps large number of people behind bars without trial cann't be said to be just and fair and is violative of Article 21.

Bail not jail is dominant principle of criminal law practiced by any mature democracy and in India often it is breached. There are times when despite long pretrial jail, the case may end with an acquittal, which makes a mockery of justice. The need for arrest is to secure presence of the accused for investigation, prevent further crimes and escape, make the community safer if the accused is prone to violence and witness tampering, when these factors are absent bail should be automatic. Bail cannot be denied to teach a lesson to accused where offence is yet to be proved. Legally, bail is right. Liberty is guaranteed as a fundamental right. Under the right to life, liberty cannot be denied without adequate reasons. Except when justified in heinous crimes such as rape, murder, dacoity, etc.

Amendment is required in Cr. PC. to bring in some checks on indiscriminate and liberal arrests without warrant by police. Every offence classified as non-bailable does not justify an arrest. The object of bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and found guilty.

Major development of criminal justice would be reform the bail system.

In Moti Ram &Ors v. State of MP 1978, the Bench said, "An after word We leave it to Parliament to consider whether in our socialist republic, with social justice as its hallmark, monetary superstition, not other relevant considerations like family ties, roots in the community, membership of stable organizations, should prevail for bail bonds to ensure that the bailee does not flee justice. The best guarantee of presence in court is the reach of the law, not the money tag. A parting thought. If the indigents are not to be betrayed by the law including bail law re-writing of may processual laws is in urgent desideratum; and the judiciary will do well to remember that the geo-legal frontiers of the Central Codes cannot be disfigured by cartographic dissection in the name of language of province."

There is immediate need of bail reforms in the country. The practice of furnishing sureties of monetary value at the discretion of the courts must be done away with, and the accused must be released only on furnishing personal bonds. Bail applications must be disposed expeditiously and bail must be given as a right and should only be denied in heinous crimes like rape, murder, terrorist activities, dacoity, etc.

There is immediate need of Bail Act which clearly stipulates the procedure as to bail and makes it very simple for common man and aligns itself to Right to

life and personal liberty rather be reformative and not punitive in nature. The courts while displaying bail applications must show compassion. If law is the means and justice is an end, so bail provisions in Cr.P.C. must culminate into liberal approach to grant bail on personal bond/undertaking. The legislature is requested to add time factor in disposal of bail applications by courts in India. Timely disposal of bail applications in sine qua non for delivery of justice.

The norm of the day should be reformative and progressive approach rather than punitive.

Source: The Constitution of India: DD Basu
The Constitution of India: Bare Act
https://judis.nic.in

Written by: Prahalad Prasad.
Men's Right Activist,
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"Merciless criticism and independent thinking are the two necessary traits of revolutionary thinking."

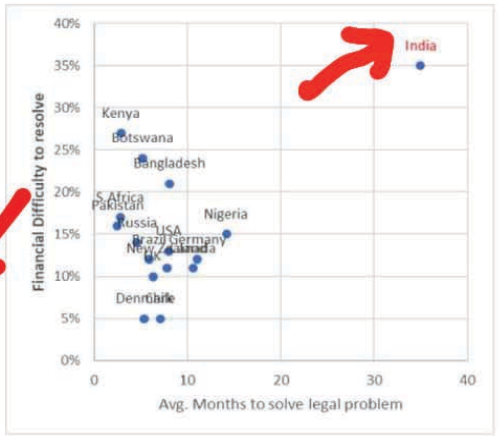
"The most persistent tendency in India is to have too much government but too little administration; too many laws and too little justice; too many public servants and too little public service; too many controls and too little welfare."

"While economic institutions are critical for determining whether a country is poor or prosperous, it is politics and political institution that determine what economic institutions a country has."

Where are we vs. Rest of the World?

https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019
Global Insights on Access to Justice 2019: Country Profiles

Country	Av. Months to solve legal problem	Financial Difficulty to resolve
Bangladesh	8.1	21%
Botswana	5.2	24%
Brazil	5.9	12%
Canada	10.6	11%
Chile	7.1	5%
Denmark	5.4	5%
Germany	11.1	12%
India	35	35%
Kenya	2.9	27%
New Zealand	7.8	11%
Nigeria	14.2	15%
Pakistan	2.5	16%
Russia	4.6	14%
S.Africa	2.8	17%
UK	6.3	10%
USA	8	13%



Legal Terrorism (#498A) Industry in India

A few calculations to consider about IPC 498A (Dowry Harassment) Industry costs per year in India

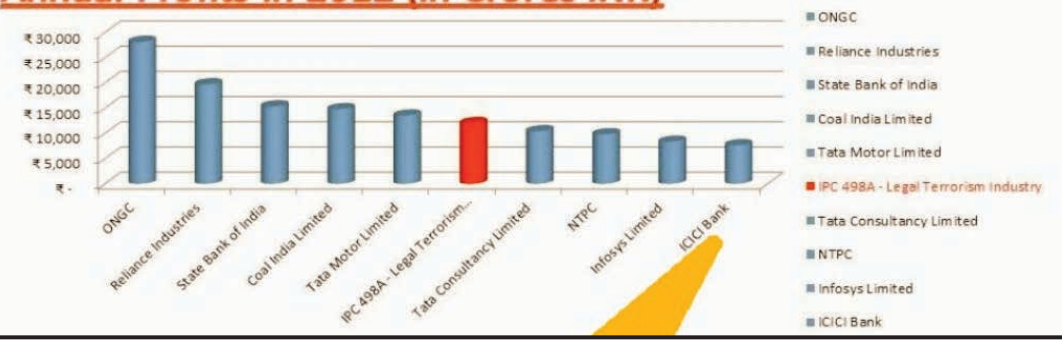
Number of FIRs~2 lakh, Accused people~6 lakh. Average Bail money Rs 50k per person. Average Litigation costs by Accused 1.5 Lakhs, by Accuser 3 Lakhs

Total Costs: Bail money per year (3000 crores) + Litigation costs (9000 crore) =

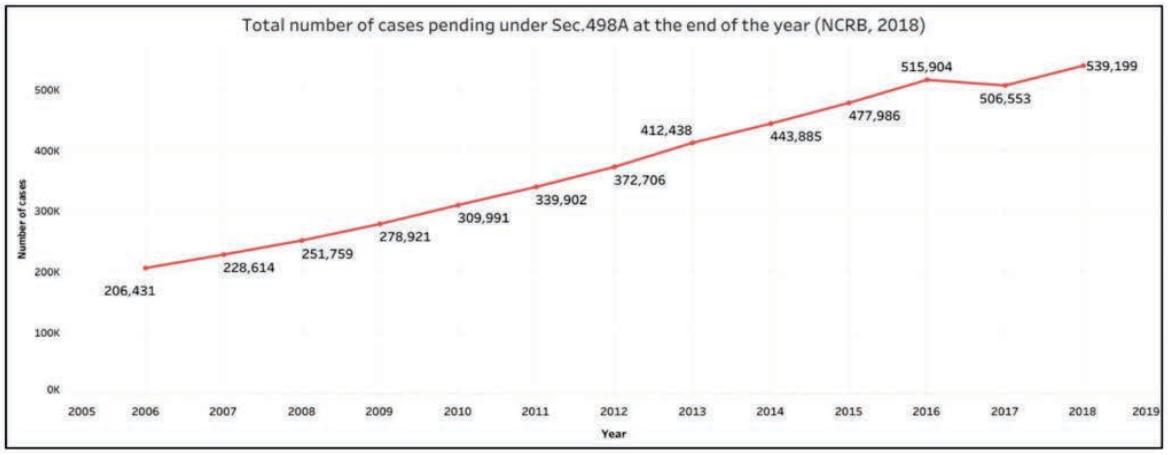
12000 crores = > Two Billion Dollars

People filing #Fakecases must be punished or this law must be scrapped

Annual Profits in 2012 (in Crores INR)



Don't you think recruitment of judges will help solving the pending cases? Below is just a data of HC and SC if we add District, Session, Family courts vacant number of judges will be shot up to sky.



Statement showing Sanctioned strength, Working Strength and Vacancies of Judges in the Supreme Court of India and the High Courts (As on 01.10.2021)

Sl. No.	Name of the Court	Sanctioned Strength			Working Strength			Vacancies		
A.	Supreme Court of India	34			33			01		
B.	High Court	Pmt.	Addl	Total	Pmt.	Addl	Total	Pmt.	Addl	Total
1	Allahabad	120	40	160	80	11	91	40	29	69
2	Andhra Pradesh	28	09	37	18	0	18	10	09	19
3	Bombay	71	23	94	50	09	59	21	14	35
4	Calcutta	54	18	72	30	06	36	24	12	36
5	Chhattisgarh	17	05	22	12	02	14	05	03	08
6	Delhi	45	15	60	29	0	29	16	15	31
7	Gauhati	18	06	24	16	04	20	02	02	04
8	Gujarat	39	13	52	25	0	25	14	13	27
9	Himachal Pradesh	10	03	13	09	01	10	01	02	03
10	J & K and Ladakh	13	04	17	11	0	11	02	04	06
11	Jharkhand	19	06	25	15	0	15	04	06	10
12	Karnataka	47	15	62	42	03	45	05	12	17
13	Kerala	35	12	47	30	7	37	05	05	10
14	Madhya Pradesh	40	13	53	29	0	29	11	13	24
15	Madras	56	19	75	45	10	55	11	09	20
16	Manipur	04	01	05	04	01	05	0	0	0
17	Meghalaya	03	01	04	04	0	04	-01	01	0
18	Orissa	20	07	27	13	0	13	07	07	14
19	Patna	40	13	53	19	0	19	21	13	34
20	Punjab& Haryana	64	21	85	33	12	45	31	9	40
21	Rajasthan	38	12	50	23	0	23	15	12	27
22	Sikkim	03	0	03	02	0	02	01	0	01
23	Telangana	32	10	42	11	0	11	21	10	31
24	Tripura	04	01	05	04	0	04	0	01	01
25	Uttarakhand	09	02	11	07	0	07	02	02	04
Total		**829**	**269**	**1098**	**561**	**66**	**627**	**268**	**203**	**471**

संस्मरण -1)

प्यारे बेटे शिवांश

आज तुम मुझसे 6.5 महीने से दूर हो ,इन 6.5 महीने मे मैने तुमको देखा नहीं ,मिलने की कोसिस की मगर मिल नहीं पाया । इन 6.5 महीने मे सिर्फ 2 बार तुम्हारी फोटो देखी ।
जब तुम गये थे तब तुम बोल नहीं पाते थे ,लेकिन अभी तुम्हारी मां ने बताया की तुम बोलने लगे हो । एक बार तुमसे फोन पर बात हुई लेकिन तुम सिर्फ "मां" बोल पाये और मेरे बोलने पे तुम मुस्कुरा रहे थे ऐसा तुम्हारी मां ने बताया ।

तुम हमारी शादी के 7 साल बाद हमारी दुनिया मे आये । तुमको अपनी दुनिया मे लाने के लिये हमने क्या-क्या नहीं किया मन्दिर ,मजार , गुरुद्वारा से लेके बहुत से डां से परामर्श और बहुत ही तकलीफदेह treatment & investigations.

फिर तीसरे IVF मे तुम अपने 1 भाई और 1 बहन के साथ triplet pregnancy के रूप मे हमारी दुनिया मे आने का अहसास दिलाया । हमारे लिये ये दुनिया-ज़हान की सबसे बडी खुशी की बात थी ।

ज़ानकारी थी कि triplet pregnancy खतरे से भरी होती हैं । लेकिन embryo reduction के खतरे, तुम्हारी मां का तुम सब को खो देने का डर और इलाज करने वाली डाक्टर का अस्वासन और शुभचिंतको के परामर्श से हमने reduction नहीं कराया ।

लेकिन प्रेगनेंसी के 5 वे महीने से ही तुम्हारी मां को समस्याये (complications) होने लगी । Anaemia, pregnancy induced hypertention & pregnancy induced psychosis

और अचानक एक दिन कानपुर से हास्पिटल को अपने असिस्तेंट के हवाले कर के तुम्हारी मां को एमरजेंसी मे लखनऊ लाके IVF करने वाली डां के आधीन भर्ती करना पडा

तुम्हारी मां psychosis मे pregnancy आगे नहीं बढ़ाना चाहती थी । उसका बार बार कहना कि उसका पेट फट जाये गा ..वो मर जाये गी ..और अगर मैने termination नहीं कराया तो वो छत से कूद के जान दे देगी और ऐसा लगभग रोज होता और मुझे कमरे के दरवाजे मे पैर लगा के सोना होता डर की कही तुम्हारी मां कुछ गलत ना कर बैठे ।

हलाकी वो ऐसा psychosis की वजह से कह रही थी। मैं जानता हुकि तुमको अपनी दुनिया मे लाने के लिये उसने कितनी तकलीफ उठाई हैं आपरेसन , सैकडो oil based hormonal injections जो एक बार लगने के बाद महीनो दर्द करते हैं और उनके side effects जो सालो रहते हैं ।

हमे किसी भी तरह से pregnancy का समय पूरा करना था । ताकी तुम लोग स्वस्थ रूप से हमारे पास आ सको , लेकिन हमारे लिये 1-1 दिन पार करना बडा मुस्किल हो रहा था ।

तुम्हारी मां को Eclamsia का खतरा ज़िसमे तुम सब सहित तुम्हारी मां की जान का खतरा मुझे चैन नहीं लेने देता ।

तुम्हारी मां जो compleate bedrest पे थी वो कुछ भी खा नहीं पाती थी लेकिन उसको तुम 3 लोगो के लिये और उसकी सेहत के लिये खाना बेहद ज़रूरी था । उसको तुम्हारे सपने दिखा के बहलाना फुसलाना और तुम सब को कैसे भी सुरक्षित अपनी दुनिया मे लाना मेरे लिये उस समय एक मात्र उद्धेश्य बचा था .

तुम्हारी मां का 3-4 बार BP हस्पिटल की तरफ से और 2-3 बार मैं खुद लेता और तुम लोगो का दिन मे 3-4 बार doppler होता । तुम तीनो की ग्रोथ सामान्य थी , बीच बीच मे तुम लोगो का USG ज़िसमे तुम लोगो को हांथ पैर हिलाते देखना बेहद सुखद अहसास था ।

लेकिन 25/4/14 को तुम्हारी मां के USG मे डाo को तुम्हारे भाई और बहन की ह्रदय गति नहीं दिखी और तुम्हारी ह्रदय गति भी गडबड दिखी, शायद ये

तुम सब और तुम्हारी मां की जान बचाने के लिये चल रही 4-4 antihypertensive drugs और anti psychotic drugs का साइड इफेक्ट था तो ड़ा मैंडम ने emergency surgery करने का निर्णय किया । उस वक्त मेरी हालत क्या थी शब्दो मे बयान करना मुस्किल हैं ।

आपरेशन मे तुम्हारे भाई और बहन जैसा कि USG मे दिखा था इस दुनिया मे नहीं आये , शायद वो देवदूत तुमको इस दुनिया मे हमारे हवाले करने हीं आये थे ।

Premature delivary (7.5month)की वजह से इस दुनिया मे आते वक्त तुम्हारा बजन मात्र 1400 ग्राम था .और तुमको NICU मे रखा गया और डा दम्पत्ती होने की वजह से मैडम ने हमे NICU के पास वाले रूम मे शिफट कर दिया और हमे 24 घंटे कभी भी NICU मे रहने की परमीशन भी देदी ,ये याद कराते हुवे कि premature बच्चे apnea मे जाते हैं और हम तुमको pain stimulus देके तुमको सांस लेने के लिये याद दिला सकें ।

2 दिन तक तुम्हारी सेहत ठीक रही सब सही चल रहा था और हम सोच रहे थे कि हफ्ते -10 दिन मे हम तुमको घर ले जा सके गे ,लेकिन तीसरे दिन तुमको सांस लेने मे तकलीफ होने लगी और तुमको ventilator मे रखना पडा हमारी धुकधुकी बढने लगी । आपरेसन के 2 दिन बाद हीं तुम्हारी मां अपने घाव भूल कर तुम्हारे पास NICU मे बैठती । 2 दिन बाद तुमको ventilator से हटाया गया ,हमारी थोडी सांस मे सांस आयी लेकिन तुम्हारा ठीक से सांस ना ले पाना एक बडी समस्या थी जो हमारी जान निकाल रही थी ।

NICU मे तुम्हारे पास खड़ा हो के तुमको देखना भी एक बडी सजा से कम नहीं था , ज़िगर के टुकडे के दोनो पैर , दोनो हांथ मे infusion cannula पडे हो, नाक मे oxigen pipe और nasogastric tube और बगल मे टु टु करती मशीने और कभी कभी रोते हुवे तुम्हे हमारी तरफ देखना जैसे तुम कह रहे हो "प्लीज मुझे ले चलो यहां से " क्या बीतती होगी मां-बाप पर ये जीवन के अच्छे वक्त मे महसूस कर पाना मुश्किल हैं ।

5-6 दिन बाद तुम्हारी सेहत और खराब हुई तुमको nasogastric tube से milk दिये जाने की कोसिस की गयी लेकिन तुमको gastric bleeding हुवा । डर था शरीर के किसी और हिस्से जैसे दिमाग मे bleading ना हो ।

जांच मे पता चला कि तुमको bacterial septicemia हुवा है जिससे platelet भी कम हो रहे थे इसीलिये gastric bleading हो रही हैं । तुमको platelet चढाना ज़रूरी था , इस दौरान तथा बाद मे तुमको करीब 10-12 unit(सही गिनती नही याद) platelet चढाये गये ।

लखनऊ मे इतने unit ब्लड का अपने बेटे का बिगड़ते स्वास्थ्य और सबकुछ दांव पे की मानसिक दबाव के साथ इंतजाम करना मेरे लिये मुस्किल था । SGPGI मे कार्यरत मेरे सीनियर डॉ विमल ने मुझे blood की व्यवस्था करायी और मेरे सीनियर डॉ विजय जो परिवार सहित इस पूरी जंग मे मेरे मानसिक सम्बल बने , ने भी मेरे साथ blood दिया । मेरा साथी डॉ दिनेश जो बाराबांकी मे कार्यरत हैं blood के लिये आये और मेरे जुनियर डॉ संजीव , डॉ विनेश , डॉ सुरेश का फोन पे blood उपलब्ध कराने मे मदद के लिये बोलना और मेरे रिस्तेदार मित्र अनुपम का कानपुर से उनके दोस्तो को फोन कर के रात मे blood उपलब्ध कराना दिल को छूँ गया । डॉ पंकज अपनी मां और पत्नी के खराब स्वास्थ्य के बावजूद भी मुझे मानसिक सम्बल देने आना बडी बात थी ।

मुझे तुम्हारी मां के संभावित post pregnancy psychosis जैसे खतरे के साथ तुम्हारे लिये जंग लडनी थी ।

Bacterial septicemia और 1400 ग्राम के premature baby के complications & prognosis जानते हुवे भी मेरा तुमको बचाने के लिये डॉ से बार बार मिन्नत करना और ये आस करना कि डां ये कहे कि तुम खतरे से बाहर हो। आह्ह् ...कितना असहाय और दयनीय हालात में था मैं

करीब 15- 20 दिन बाद तुम्हारी सेहत थोडी बेहतर होने लगी लेकिन तुम्हारी recovery बहुत slow और irregular थी ,इस दौरान कई बार डां हांथ खड़े करते नजर आये ।

इसीबीच मैने एक दिन नर्स को तुम्हे दिये जाने वाले antibacterial injection को ना देते पकडा शायद वो injection हमसे मंगा के बाहर वापस बेचती होगी । मैने डां मैडम को बोला तो ऊँहो ने मेरे पे विश्वास करते हुवे NICU की CCTV recording देखी और नर्स की चोरी पकडी गयी ।

सोचिये bacterial septicemia मे anti bacterial drug ना मिले तो मरीज का बचाना मुस्किल होता हैं । 200-250रूपये के लिये किसी की ज़िन्दगी से खेल जाने वाले लोग भी हैं इस दुनिया मे ।

मेरी शिकायत के बाद मैने उस नर्स को कहते सुना की "ये बच्चा NICU से बाहर नहीं जाये गा" ,मेरा दिमाग भन्ना गया , क्या कह रही हैं ये नर्स ? लगा की इस नर्स का अभी टेटुआ दबा दु फिर मैं चीखा "अगर मेरा बेटा NICU से बाहर नहीं जाये गा तो तू भी NICU से बाहर नहीं जाये गी "

फिर मैने डां मैडम से बात की तो वो मुझे तुमको दूसरे होस्पिटल ले जाने को बोला

फिर मैने अपने साथी डॉ त्रिभुवनेश और डॉ वर्मा दोनो बच्चो के डां की सलाह पर लखनऊ मे उनके परिचित डां अभिषेक के होस्पिटल मे भर्ती कराया । हम तुमको सहारा होस्पिटल ले जाना चाहते थे पर वहां भी इलाज येही होता लेकिन वहां हमे तुमसे बहुत कम समय मिलने दिया जाता और तुम्हारी पूरी जानकारी भी नहीं मिलती शायद ।

यहा पर अगले दिन तुमको फिर से सांस लेने की समस्या से ventilator मे डालना पडा । और जांच मे यहां तुमको fungal septicemia और platelet की कमी और GI bleeding । यहा भी 2-3 unit platelet चढ़ाये गये .

2 दिन बाद हमारे सामने तुमको ventilator से out करने की कोसिस की गयी लेकिन तुम्हारी सांसे उखडने लगी ,ये देख तुम्हारी मां बाहर भागी और मैं उसके पीछे ,बाहर तुम्हारी मां चीखी"अजित तुम्हारा बेटा मर रहा हैं " मैने कांपती आवाज और धडकते दिल से उसको दिलासा दी"कुछ नहीं होगा सब अच्छा होगा "
तुमको वापस ventilator मे रखा गया । अगले 2-3 दिन तक तुम्हारी हालत बेहद खराब थी हम निराश होने लगे थे । दरअसल तुमको Fungal infection के लिये तुमको Amphotericin दिया जा रहा था जो partially resistant था और तुमको ज्यादा फायदा नहीं हो रहा था , Caspofungin senstive था लेकिन डां का कहना था कि caspofungin देने का उनका experience ज्यादा अच्छा नहीं हैं और इसकी कीमत भी 4-5000/- के आस-पास थी और करीब 30 दिन ये लगाना था । मैने उनको बोला पैसा कोई मसला नहीं हैं इस तरफ मत सोचिये तो फिर उनहो ने KGMC के परिचित डां को 2nd opinian के लिये बुलाया इधर तुम्हारी मां ने भी अपनी साथियो से सलाह ली और ये तय हुवा कि तुमको caspofungin drug मे डाला जाये

KGMc मे कार्यरत मेरे सेनियर डॉ सर्वेश ने हमे होस्टल मे कमरे की व्यवस्था की थी कमरा 4rth फ्लोर मे था रात को सोते सोते बेचैन तुम्हारी मां का कमरे से बाहर निकल आना और मुझे उसके गलत कदम की असंका से उसके पीछे आना और उसका कहना की "तुम नहीं तो वो भी नहीं " मेरी आत्मा तक कंपा जाता ।
इस दौरान हमको जब भी समय मिलता मन्दिर जाते तुम्हारे लिये प्रार्थना करते ,तुम्हारे लिये भगवान के सामने

रोते गिडगीडाते , बुरी तरह रोना आता
न जाने कितनी मन्नत मांगी तुम्हारे लिये
और भगवान से सवाल होता . क्यू ??
मैने क्या बुरा किया

अंत मे भगवान को धमकी भी देता कि अगर मेरे बेटे को कुछ हुवा तो मैं तुमको कभी माफ नहीं करूँ गा।

अगले 2 दिन बाद तुमको ventilator से बाहर किया गया GI blead बंद हो चुकी थी। अगले 4-5 दिन मे तुम्हारा स्वस्थ बेहतर हुवा ।अब तुमको 5Ml फिर 10ml mother milk nasogastric tube से दिया जाने लगा.
अब तुम काफी बेहतर थे ।

13-14वे दिन तुमको बोतल से दूध पिलाने की कोसिस की गयी। लेकिन प्रशिक्षित नर्स से भी तुमको दूध पिलाना ठीक नहीं लगा दरअसल तुम दूध निगल नहीं पा रहे थे और बार बार खांस रहे थे मुझे डर लगा कि कहीं तुम aspirate ना कर जाओ

मैने उसको रोका कि तुमको जबरजस्ती बोतल से दूध ना पिलाये और डां से बात की
तुम अब काफी बेहतर थे इसलिये तुम्हारी मां से बात कर के तुमको कानपुर सिफट् करने का प्लान किया। तुम्हारी मां ने कानपुर के बेहतरीन बच्चो के डां तनेजा से बात की कि कानपुर पहुचते हीं वो तुमको देख लें।

अगले दिन सुबह तुम्हारी मां और होस्पिटल के 2 प्रशिक्षित स्टाफ, मानीटर और आक्सीजन सहित अपनी गाडी से हम कानपुर के लिये निकले और एम्बूलेंस को अपने पीछे-पीछे आने को बोला।

रास्ते मे तुमको कोई समस्या नहीं हुई और रास्ते मे तुम्हारा गाडी मे इधर उधर टुकुर-टुकुर देखना दिल को बहुत सुकून दें रहा था

कानपुर आ कर तुमको NICU मे भर्ती कर दिया गया। सब बेहतर था लेकिन jaundice थी जो अब बढ गयी थी शायद antifungal drug का side effect है था और तुम्हारा बजन नहीं बढ रहा था,जन्म से करीब 30-35 दिन गुजरने के बाद भी तुम्हारा बजन 1400 ग्राम हीं था, 4-5दिन हर 2 घंटे मे mother milk tube के जरिये तुमको दिया जा रहा था लेकिन बजन ना बढने से तुम्हारी congenital disorders की जांचे शुरू हुई और हर जांच की रिपोर्ट आते तक हम बेचैन रहते। और मेरा बहादुर बेटा हर टेस्ट मे पास होता। हमने डां तनेजा से असंका जाहिर की कि कहीं तुमको सही से milk दिया हीं ना जा रहा हो? क्यू कि मैने देखा था कि 11-12 बजे के बाद नर्स, आया और जूनियर doctor वही NICU मे नीचे बिस्तर लगा के सो जाते थे। कई बार मैने देखा कि warmer over heated होगया क्यू कि temperature control करने के लिये बच्चे के शरीर मे लगने वाला सेंसर बच्चे से अलग पडा होता

तो डां तनेजा ने हमे NICU के बगल मे रूम लेने को बोला और उनहो ने तुम्हारे लिये रूम मे हीं एक warmer की व्यवस्था करवाई ज़िससे तुम हमारे साथ रूम मे रहते, पहले हर 2 घंटे मे तुमको NICU मे ले जा के tube से milk दिलवाते फिर हिम्मत कर के ये काम हम खुद करने लगे और ये काम कर गया तुम्हारा बजन बढने लगा, शुरू के दिनो मे तुम्हारा 10-10 ग्राम बजन बढ़ना हीं हमे बहुत खुश कर जाता

करीब 12-13 दिन बाद डां तनेजा के कहने पे कि आप लोग अपने बच्चे का ख्याल होस्पिटल स्टाफ से ज्यादा बेहतर रख सकते हैं और तुमको कोई स्वस्थ्य सम्बधी समस्या भी नहीं बची, केवल तुमको milk पीना जो की तुम tube से ले रहे थे पहले चम्मच फिर बोतल से पीना सीखना था वो भी समय अधारित था और होस्पिटल मे hospital born diseases का खतरा भी था, जो तुम्हारी prematurity से और बढ जाता था

हम तुमको घर ले आये, घर का एक कमरा तुम्हारे लिये सुरक्षित कर लिया गया उस कमरे मे मेरे और तुम्हारी मां के अलावा सभी का प्रवेश निषेद कर दिया गया। परिवार और रिस्तेदार तुमको देखना चाहते थे और अपनी गोद मे लेना चाहते थे लेकिन तुम्हारी सेहत के लिये सब ने अपना मन कडा किया।

तुम 12-15 दिन तक tube से milk लेते रहे हमने कई बार कोसिस की tube निकाल के तुमको चम्मच से milk देने की और तुम हांथ पैर चला के अपनी tube

भी खीचने लगे पर तुम दुध नहीं निगल पाते ,हम परेशान हो जाते कब तक तुम ऐसा करोगे ,
फिर तुमने दुध पीना सीखा ..
आह्ह् .... हम बेहद खुश ...लेकिन हमे एक अजीब सा भय बहुत दिन तक बना रहा

ये 4 महीने मेरे लिये नर्क जैसे थे असहनीय मानसिक पीडा ....आह्ह् , लेकिन तुम्हारी मुस्कुराहत ने वो सारी पीडा भूला दी
मेरी खुशी का अंदाजा नही लगा सकते, जब तुम हाँथपैर हिलाते हुवे "उग्गी" बोलते थे

तुमने "मौत "को हीं नहीं हराया बल्की तमाम समस्याओ के दुष्परीनाम को भी चकमा दिया हैं जो बिरले हीं कर पाते हैं ,तुम एक अद्वतीय "योद्धा"हो

शायद हमारी इस असहनीय पीडा का कारण ये भी था कि हमे 1400ग्राम के premature baby , blood transfusion , oxigen infusion , bacterial septicemia , fungal septicemia के complication & prognosis और drugs के side effect के बारे काफी कुछ जानकारी थी । और हम आगे -पीछे बहुत दूर तक की सोच जाते थे

तुम्हारे ताऊ जी लोग जो इस जंग मे जब मैं हारने लगता तो वो साथ खड़े होते और मुझे कभी भी आर्थिक ज़रूरतो की तरफ सोचने नहीं दिया ,तुम्हारी बुवा जी और ताई जी जो 10-15 दिन के अन्तराल मे लखनऊ मे हमारे साथ रहे और तुम्हारी मां का ख्याल रखा । परिवार और रिस्ते इसीलिये होते हैं शायद , आजकल सभी को आजादी चाहिये , परिवार मे invest कोई नहीं करना चाहता मगर बुरे वक्त मे परिवार हीं साथ आता हैं ,उम्मीद हैं बडे होने पर तुम इसको एक सबक की तरह लोगे

तुम्हारा पापा
Date 29/10/17

इस सत्य घटना का लेखक एक नेत्र सर्जन है और वो अपने इस बेटे से 5.5 साल से दूर है उससे कभी कभी मिल पाता है और अब झूठे 498a मुकद्दमें का आरोपी है

सास और पत्नी द्वारा आरोपी पर अपने इस बेटे को संपत्ति के लिए जान से मार डालने की संभावना का आरोप लगाया गया था

और क्या बीतती होगी इस पिता पर जब मिलने गए पिता से 7.5 साल का बच्चा मां के सिखाने पर पिता से बोले "मुझे आप से बात नहीं करनी"

~ एक पिता - अजित सचान
Men's Rights Activist

"Our lives begin to end the day we become silent about things that matter."

Cruelty as a ground of divorce under Hindu Marriage Act.

Only such a household who practices restraint in taking care of his family shall acquire family happiness and achieve social status. ……..Rig Veda

Marriage is one of the important institutions in human civilization. It has existed in every culture, providing societal legitimacy to a bonding experience between man and woman and procreating children. Matrimonial behaviour in India is now controlled by legislations like Hindu Marriage Act 1955, Special Marriage Act 1954, Indian Christian Marriage Act 1872. The object of marriage is to lead peaceful conjugal life with self-control, love & affection for the entire family. Every couple attempts to keep their relationship by putting aside their differences, but things change when one can no longer control the circumstance and divorce is the last resort for such broken relationships. Divorce refers to dissolution of marriage and free from matrimonial obligations. There are many grounds of divorce as ascribed in Section 13(1) of Hindu Marriage Act, one reason is any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party- has, after the solemnization of the marriage, treated the petitioner with cruelty.

In the landmark decision in **Narayan Ganesh Dastane vs. Sucheta Narayan Dastane 1975**, Honourable Supreme Court defined cruelty. Cruelty was made as a basis of divorce in Hindu Marriage Act in 1976.

Although there is no such exhaustive definition to what all conditions would lead to an offence of cruelty, but certain conditions of such nature can be:

- The physical violence on the spouse.
- Having affairs or committing adultery with not just the spouse's knowledge but even publicly accepting it.
- And also, in cases where either of the spouses is falsely accused of committing adultery.
- The constant manifestation of agony, rage with the addition of yelling or abusing at the spouse.
- Demoralizing and restricting the spouse by every means to be an independent individual and compelling the spouse to be in a marital relationship where the spouse is left with no other option but to depend on the other.
- Not disclosing any fact or incident of an acquired sexually transmitted disease while they are already into marital life. And the list goes on.

- The conduct by either of the spouse should be of such a nature which should fall in the ambit of cruelty under the Matrimonial Law.

In the landmark judgement of Mayadevi vs. Jagdish Prasad in February 2007, the Honourable Supreme Court held that any kind of mental cruelty faced by either of the spouses not just the woman but men as well can apply for a divorce on grounds of cruelty. Hence, a man is also entitled to divorce if he is inflicted with any kind of cruelty.

Cruelty includes physical and mental cruelty. Cruelty is the res gestae (the events) that adverse effects on the mental and physical health, social status and lifestyle of the other party.

In **Samar Ghosh vs Jaya Ghosh** (2007) 4 SCC511, Honourable Supreme Court considered the concept of cruelty and referring to Oxford Dictionary defined cruelty as the quality of being cruel, disposition of inflicting suffering, delight in or indifference to another's pain, mercilessness, hard heartedness.

Cruelty against men: Most apparently some women are using Section 498A, Dowry Prohibition Act as a weapon to unleash personal vendetta, legal terrorism on their husbands and innocent relatives and there are certain grounds on which cruelty against husband can be proved like:

1. Misuse of Dowry Laws, Domestic Violence Act, Section 498A by wife against husband and in-laws of husband through lodging false complaints.
2. Desertion by wife which means deliberately intending for separation and to bring cohabitation permanently to an end.
3. Adultery by wife which means wife having sexual relationship with some other person during the lifetime of marriage.
4. Wife opting out for second marriage without applying for the divorce proceedings.
5. Threatening to leave husbands home and threat to commit suicide by wife.
6. Cruel behaviour of wife where wife tearing the shirt of the husband, refusing to cook food properly or on time and breaking the mangalsutra in the presence of husband's relatives.
7. Abusing and accusing husband by insulting in presence of in-laws and in some cases wife abusing husband in front of office staff members.
8. Wife refusing to have sex with husband without any sufficient reasons which can be considered as a ground of cruelty.
9. Lowering reputation of the husband by using derogatory words in presence of family members and elders.

10. Initiating criminal proceedings against husband and in laws with mala fide intention.

And the list is many.

Honourable Apex Court in **Vishwanath Agrawal vs. Sarla Vishwanath Agrawal**: (2012) 7 SCC 288, while dealing with mental cruelty, it has been opined thus: The expression "cruelty" has an inseparable nexus with human conduct or human behaviour. It is always dependent upon the social strata or the milieu to which the parties belong, their ways of life, relationship, temperaments and emotions that have been conditioned by their social status.

In **A. Jayachandra v. Aneel Kaur**, (2005) 2 SCC 22, the Honourable Supreme Court observed as under: "The expression "cruelty" has not been defined in the Act. Cruelty can be physical or mental. Cruelty which is a ground for dissolution of marriage may be defined as wilful and unjustifiable conduct of such character as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such a danger. The question of mental cruelty has to be considered in the light of the norms of marital ties of the particular society to which the parties belong, their social values, status, environment in which they live. Cruelty, as noted above, includes mental cruelty, which falls within the purview of a matrimonial wrong. Cruelty need not be physical. If from the conduct of the spouse, same is established and/or an inference can be legitimately drawn that the treatment of the spouse is such that it causes an apprehension in the mind of the other spouse, about his or her mental welfare then this conduct amounts to cruelty. In a delicate human relationship like matrimony, one has to see the probabilities of the case. The concept proof beyond the shadow of doubt, is to be applied to criminal trials and not to civil matters and certainly not to matters of such delicate personal relationship as those of husband and wife. Therefore, one has to see what are the probabilities in a case and legal cruelty has to be found out, not merely as a matter of fact, but as the effect on the mind of the complainant spouse because of the acts or omissions of the other. Cruelty may be physical or corporeal or may be mental. In physical cruelty, there can be tangible and direct evidence, but in the case of mental cruelty there may not at the same time be direct evidence. In cases where there is no direct evidence, Courts are required to probe into the mental process and mental effect of incidents that are brought out in evidence. It is in this view that one has to consider the evidence in matrimonial dispute."

In **K. Srinivas Rao v. D.A. Deepa** (2013) 5 SCC 226, while dealing with the instances of mental cruelty, the Honourable Supreme Court opined that

to the illustrations given in the case of Samar Ghosh certain other illustrations could be added. We think it seemly to reproduce the observations: Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or the job of the spouse and filing repeated false complaints and cases in the court against the spouse would, in the facts of a case, amount to causing mental cruelty to the other spouse.

In **Samar Ghosh v. Jaya Ghosh**, (2007) 4 SCC 511, Honourable Supreme Court held; "No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of `mental cruelty'. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive. (i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty. (ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party. (iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable. (iv) Mental Cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty. (v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse. (vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty. (vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty. (viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty. (ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day to day life would not be adequate for grant of divorce on the ground of mental cruelty. (x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill-conduct must be persistent for a fairly lengthy period,

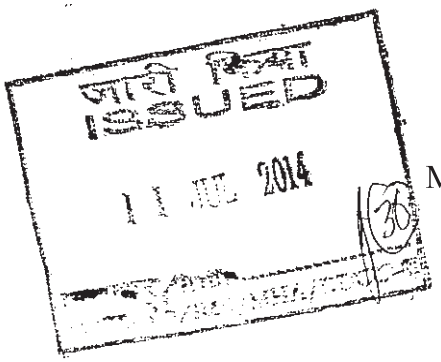
where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty. (xi) If a husband submits himself for an operation of sterilization without medical reasons and without the consent or knowledge of his wife and similarly if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty. (xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty. (xiii) Unilateral decision of either husband or wife after marriage not to have child from marriage may amount to cruelty. (xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.

We can conclude that either of the spouse can approach the court for dissolution of marriage on the basis of cruelty. It is the need of the hour that matrimonial cases are required to be decided expeditiously in time bound manner. Also time has come to amend Hindu Marriage Act and bring irretrievable breakdown of marriage as a ground of divorce.

Written by: Ranjit Kumar Singh.
Men's Right Activist,
General Secretary, SIF-Jharkhand.

"Justice is truth in action."

"Injustice anywhere is a threat to justice everywhere. "



No. 3/5/2008-Judl.Cell
Government of India/Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

4th Floor, C Wing, NDCC-II Building
jai Singh Road
New Delhi -110 001.
Dated: July 10, 2014

11 JUL 2014

To

All Chief Secretaries of State Government/Union Territories Administrations.
(As per listed attached)

Subject: **Advisory on measures to be taken by the States/UTs to curb the misuse of section** 498-A **of the Indian Penal Code- regarding.**

Sir/ Madam,

The Government has, from time to time, issued advisories on measures to be taken by the States/UTs to curb the misuse of section 498-A of the Indian Penal Code.

2. On 02.07.2014 the Hon'ble Supreme Court, in the case of Arnesh Kumar Vs State of Bihar and Anr. (copy enclosed), observed that there is a phenomenal increase in matrimonial disputes in recent years and the fact that section 498-A is a cognizable and non bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shields by disgruntled wives. The Hon'ble Supreme Court has observed the following:

I) All the State Governments to instruct their police officers not to automatically arrest a person when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down flowing from Section 41, Cr.PC;

ii) All police officers be provided with a check list containing specified sub-clauses under Section 41(1) (b) (ii);

iii) The police offecer shall forward the check list duly filled up and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

iv) The Magistrate, while authorising detention of the accused, shall peruse the report furnished by the police officer along the terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

contd.2/-

v) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

vi) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

vii)Failure to comply with the directions aforesaid shall, apart from rendering the police officers concerned liable for departmental action, also make the officers liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction;

viii) The Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court if he authorizes detention without recording the reasons, as aforesaid.

3. **The Hon'ble Court has directed that a copy of the judgment should be forwarded to the Chief Secretaries as also the Directors General of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its compliance.**

4. **All the State Governments/UT Administrations are requested to take effective measures to scrupulously enforce the directions/order of the Hon'ble Supreme Court as also the advisories issued by the Government of India from time to time.**

5. **The receipt of this letter may kindly be acknowledged.**

Yours faithfully,

Enclosed as above

10/7/2014

Agrawal)
Joint Secretary (Judicial)
Ph No. 23438113

Excerpts from Preeti Gupta vs. State of Jharkhand 2010

- It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

- It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

- The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

- Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

- The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these

complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

- Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

- The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

Compiled By:
Chandeshwar Singh,
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Men's Right Activists.

Activism Photograph

Parental Alienation - A Silent Epidemic

When litigation starts in matrimonial life, the most sufferer are our children. Parental Alienation is a child abuse. In India, child right is not well established, willingly or unwillingly you will not be able to meet your own child. Since our laws are heavily tilted towards women. No any feminist will talk about your child. To just make one false 498A women happy, they are always ready to make sacrifice of two life (father and son). Its pathetic.

Parental Alienation describes a process through which a child becomes estranged from a parent as the result of the psychological manipulation of another parent. The child's estrangement may manifest itself as fear, disrespect or hostility toward the distant parent, and may extend to additional relatives or parties. The child's estrangement is disproportionate to any acts or conduct attributable to the alienated parent. Parental alienation can occur in any family unit, but is believed to occur most often within the context of family separation, particularly when legal proceedings are involved, although the participation of professionals such as lawyers, judges and psychologists may also contribute to conflict.

The child psychologist who first coined the term parental alienation syndrome (PAS) in 1985.

- Experience increased anger.
- Have heightened feelings of neglect (or even have their basic needs actually neglected while being caught in the middle of their parents' fight).
- Learn a destructive pattern that they pass on to others.
- Take on a skewed view of reality and become prone to lying about others.

As per Hindu Minority and Guardian Ship Act 1956, in section 6, it is clearly specified that Father is the primary natural guardian of a legitimate boy/girl who attends five years of age, then mother is secondary. Feminists don't want to take pain for justice either for father or son. It is recommended for a father to take required steps of bringing the son with them. No litigations should be initiated against the father is always as first "Natural Guardian". It is often seen that, false 498A IPC lady demands money for raising children, it is ex-facie established that the child get kidnapped in her hands, but she does not want to handover the child to his father, the false 498A IPC lady uses the child as a tool of extortion under the umbrella of organised legal crime. The most dangerous part is that, the delicate minds of the child's gets poisoned by the opposite party against the distant father.

Since any tender age child is not able to understand the complex human transactions in his surroundings, alienated child is helpless, and not able to express their internal feelings to anyone. Although, and no one is available to listen to them at right place and right time. On this hateful act, our Indian society is silent, where the child is losing all his fundamental rights of life and liberty to get love of both father and mother.

#ParentalAlienation – A silent epidemic as problem associated with Indian family moreover the logical unit of Indian society.
Let's talk about solution of it.

Whatever are the circumstances, the family dispute ends with the dissolution of marriage (Divorce). That runs over years in family courts, if it is not Mutual Consent Divorce (MCD). Till the time child gets growing with a single parent and no one care for it, literally no one, I bet it. They are concerned only about #LegalExtortion but not for #SharedParenting.

#SharedParenting is the relief for both child and his parents (either mother or father). The child has nothing to do, why the hell husband & wife are fighting, He needs love and affection of both father and mother in equal interval of time. Though shared parenting approach & adoption in our society and judiciary (with immediate effect as and when litigation starts in any matrimonial dispute) we could create a better family structure (because it is often seen that, child works as a strong pillar for jointing the families), society and moreover the child is the future of any country, he should be a good citizen in future, once he would be brought-up with the love and affection of both parents.

Reference:
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https://sifjharkhand.in/parental-alienation/

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Written by: Munendra Kumar.
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Misuse of Section 498A: (Legal Terrorism)

This poorly and vaguely formulated law is inviting women to file false cases and causing the imprisonment of innocent husband, his family members and his old parents. They are put behind the bar along with other criminals. These innocent people undergo stigmatization and emotional trauma even before the trial in the court of law, which leads to **emotional and physical torture including financial "legal extortion".** Some of the falsely accused have committed suicide after being jailed, unable to bear the social stigma and due to helplessness, these innocent families have no option but to commit suicide. Such false accusations must be checked at root level. Men too are victims of domestic violence, but there are no legal remedies available to him. Malimath Committee recommended that law must be modified to protect such innocent people, in order to stabilize the foundation of Indian family system.

When marriage is on the brink of the divorce, because of mainly compatibility issue, wife finds no better weapon to harass her husband and in-laws than Section 498A. She blackmails them and coerces them to fulfill her unlawful demands by threatening of filing 498A. More so, when a modern woman finds unable to adjust with her in-laws, and find it difficult to dominate her husband, she often files a false case under Section 498A to tune her desires. This is nothing but sheer cruelty. Most of the times, root cause of filing of 498A is not what this section is intended for. No one should be allowed to unleash frivolous proceedings under the garb of Section 498A. It cannot be assassin's weapons. The stringent dowry laws meant to deter dowry seekers are being increasingly misused by the very people they are meant to protect. It has become a bargaining tool for wives. Such tyranny is not only against husband but his whole family.

Several heart-rending incidences of innocent families being arrested without investigation and put in judicial custody have been reported as news items in various news papers over the years. While section 498A is supposed to be a law protecting women, ironically it harms many more women. For every male accused of 498A, there are multiple women, his mother or sister or relatives are implicated in a crime that never occurred or they never stayed together. If there are more women in the family they too are accused, irrespective of their age, health condition, marital status or their physical proximity to the complainant. There are many news items, where married sisters of the husband even they are pregnant or with a baby in hands are jailed or the entire family is ruthlessly arrested and there are no words to describe the financial hardship and emotional trauma that they have to endure.

Misuse of Section 498A IPC has been termed as "Legal Terrorism" by Honourable Supreme Court long back in year 2005 in Sushil Sharma vs. Union of India. Misuse of 498A is legal Terrorism, merely because the provision is constitutional and intra vires, does not give a license to unscrupulous persons to wreck personal vendetta or unleash harassment.

Writen By: Samir Agarwal, Akshay Agarwal. Men's Right Activists.

#पुरुष (#मर्द)

आपने लोगों को ख़ुद के हिंदू, मुस्लिम, हिंदुस्तानी इत्यादि होने पर गर्व करते देखा होगा। पर क्या किसी को मर्द होने पर गर्व करते देखा है। मूँछों पर ताव देना मूँछों का प्रदर्शन है, मर्द होने पर गर्व करना नहीं।

जबकि मर्द होना सबसे ज़्यादा गर्व की बात है। एक मर्द जन्म लेने से लेकर मरने तक काम करता है। वह पैदा होकर कमाने लायक़ बनने के संघर्ष में अपने जीवन का 25-30 साल गुज़ार देता है। उसके बाद परिवार का मुखिया बन हर ज़िम्मेदारी उठाता है। वह बच्चों की फ़ीस और मेडिकल श्योरिटी के बाद सॉसाययटी में ख़ुद को स्थापित करता है।पूरी ज़िंदगी परिवार के लिए पाई पाई जोड़ता है। फिर सबकुछ छोड़ कर मर जाता है। इसी जीवन काल में वो जीने के लिए बीच बीच में साँस भी लेता है।

वह कोयले की खदान से लेकर बारूद के कारख़ाने तक में काम करता है। रेकोर्ड मौजूद है जिसमें मर्दों ने अस्पतालों में लाइन लग कर अपना खून तक बेचा है। कई तो लिवर और किडनी बेच देते हैं। और ये सब वह ऐय्याशी के लिए नहीं बल्कि अपनी जिम्मेदारियों को निभाने के लिए करता है।

इसके बावजूद आज मर्दों की स्थिति देखिए। भारत के जेलों में 99% क़ैदी मर्द हैं। सरे राह पुलिस की लाठी मर्द खा रहा है। सड़क दुर्घटनाओं में सबसे ज़्यादा मृत्यु मर्दों की हो रही है। सबसे ज़्यादा लोन मर्दों के नाम पर है। घर मर्दों के बिक रहे हैं। चुनावी रैलियों में सबसे ज़्यादा मर्द रेले जा रहे हैं।

इतने के बावजूद कुछ कलाकार ये कह कर निकल जाते हैं की " मर्द को कभी दर्द नहीं होता"। अरे होता है भाई। मर्द को बहुत कष्ट होता है। वह रोता भी है तो आंसू नहीं निकलने देता क्योंकि वह कमजोर नहीं दिखना चाहता। मर्द एक "मज़बूत कमजोर" है जो मुश्किल टूटता है, और जब टूटता है, बिखर जाता है। उसके बाद उसे जोड़ नहीं सकते।

मर्द औरत का कोंट्रास्ट नहीं है। वह एक इंडिविजूअल है। जैसे कुत्ता एक इंडिविजूअल होता है। कमाल की बात ये है की इस दुनिया में कुत्तों तक की हितों की बात करने के किए PETA जैसी स्वयंसेवी संस्थाएँ मौजूद है पर मर्दों की बात करने वाला कोई नहीं है। एक बात लिखना भूल रहा था, ये साले कुत्ते भी सबसे ज़्यादा मर्द को ही काटते हैं। आगे, मै ये नहीं चाहता कि मर्दों को सिर चढ़ा लिया जाए जैसे शेर, भालू, कुत्ता, किन्नर और महिलाओं के लिए क़ानून बना कर उन्हें कर्ण कवच दे दिया गया है। बस ये चाहता हूँ की मर्द को भी इंसान समझा जाए। एक थका हुआ मर्द के लिए भी सीट छोड़ी जाए, एक हाँफता मर्द को लाइन आगे जगह दी जाए। मर्द वैसे ही प्यार से बात की जाए जैसे लोग अपने घरों में पालतू कुत्तों से करते हैं। उतना ही ख़याल भी रखा जाए। बंधुआ मज़दूर है मर्द, थोड़ा सा पानी और प्यार दिया जाय। रामू-छोटू कह कर पुकारते हो तो साथ भैया और काका भी जोड़ा जाए।

आज मर्दों की स्थिति बहुत बुरी है। NCRB के डेटा देखें तो घरेलू हिंसा के मुक़दमों में असंख्य मर्द जेलों बंद है। असंख्य मर्द पारिवारिक कलह के चलते अपने बच्चों को पाने लिए अदालतों में चप्पलें घिस रहे हैं। थानो में सबसे ज़्यादा केस मर्दों पर दर्ज हैं। मर्द रोज़गार की कमी के चलते छोटे - छोटे काम करने को मजबूर है। परेशान मर्द मजबूर होकर आत्महत्या कर रहा है। हिंदुस्तान में इस साल अब तक 1,08,000 परेशान मर्द आत्महत्या कर चुका है। औरतो की संख्या मात्र 46,000 है।

लेकिन मर्दों की चिंता किसी को नहीं है क्योंकि लोगों को लगता है मर्दों के हित करने से औरतों का अहित होता है। जो कि ग़लत है। एक मर्द के पीछे कम से कम पत्नी और माँ के रूप में दो औरतें तो होती ही हैं। फ़्रंट फूट पर खड़ा मर्द के हितों में ही इनका भी हित निहित है।

अतः "GDP मशीन" यानी मर्द से नर्म व्यवहार रखें।

~ शकील अंसारी
Men's Right Activist

All India Helpline No. - 8882 498 498.
For any help, counselling and suggestions following numbers can be contacted in Jharkhand : 9931394889, 9334712823, 8084380535

The Following are indicative list of members :

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28	Ajit Sachan	Kanpur	9415184445
29	Akash Gupta	Kanpur	7905294600
30	Anupam Dubey	Kanpur	9889188810
31	Rupesh	Khunti	8252224851
32	Ayush Viveka	Kolkata	7003373482
33	Anurag Pratik	New Delhi	9899189700
34	Ashok Sharma	New Delhi	9599239843
35	Chandan Kumar	New Delhi	9910121291
36	Pushkar Srivastav	New Delhi	9953041026
37	Vinod Upadhayay	New Delhi	9555470395
38	Amit Roy	New Delhi	9971770257
39	Anand Mahto	New Delhi	9873371758
40	Munendra Kumar	New Delhi	9599055821
41	Sourabh Gandhi	New Delhi	7022025765
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43	Abhay Agrawal	Ranchi	7859077350
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45	Abhishek Saha	Ranchi	9006368623
46	Akshay Agrawal	Ranchi	7000372949
47	Alok Ranjan	Ranchi	9386661436
48	Aman	Ranchi	6202525657
49	Bhaskar Trivedi	Ranchi	9960800222
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53	Chandeshwar Singh	Ranchi	7654692744
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55	Dhananjay	Ranchi	9324059425
56	Dr. Alok	Ranchi	9608112040
57	Gautam	Ranchi	6299114923

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59	Manoj Gupta	Ranchi	8409547100
60	Mintu Krishna	Ranchi	6205913709
61	Narendra Pathak	Ranchi	9304065151
62	Nasruddin Ali Haider	Ranchi	9771484375
63	Naveen Jaiswal	Ranchi	9973937408
64	Nimesh Anand	Ranchi	9934118745
65	Niraj Sinha	Ranchi	8210927092
66	Prahalad Prasad	Ranchi	9931394889
67	Rajendra Kumar	Ranchi	9835939158
68	Rajesh Mahto	Ranchi	7654994500
69	Rakesh Kumar	Ranchi	9958296252
70	Ramesh Kumar/Rinku	Ranchi	9905114500
71	Ramesh Pathak	Ranchi	8084380535
72	Randhir Jaiswal	Ranchi	7519532869
73	Ranjit Singh	Ranchi	7004115536
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75	Samir Agarwal	Ranchi	9966871036
76	Sapan Singh	Ranchi	9934152202
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78	Shakil Ansari	Ranchi	9868433926
79	Srawan Kumar	Ranchi	9155982299
80	Sushil Pandey	Ranchi	8603665009
81	Umesh Mahto	Ranchi	9435000155
82	Vijayanand	Ranchi	9891097370
83	Yogesh	Ranchi	9709057087
84	Ashutosh Pandey/ Neeraj	Ranchi	9304560763
85	Omprakash Gaba	Ranchi	8882462799
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87	Arun Prasad	Ranchi	6206112076
88	Ajay	UAE	0971503014392
89	Ajay Pandey	Ranchi	9304033896
90	Zeeshan	Jamshedpur	971504524345
91	Satish Kumar Singh	Patna	7004407344

SIF Jharkhand is inviting people to fight against gender biased law like Section 498A of IPC, Dowry Prohibition Act, Domestic Violence Act, Maintenance and saving institution of marriage/family in the country.

SAVE MEN, SAVE NATION.

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रजि. नं.: 145/2020-21

SAVE INDIAN FAMILY JHARKHAND

(MEN'S RIGHT ORGANISATION)

1. आप झूठे पारिवारिक मुकदमों में फसाये जा सकते हैं।
2. आप बिना शादी के भी दहेज प्रथा या घरेलू हिंसा की झूठी शिकायतों के शिकार हो सकते हैं।
3. महिला कानूनों का दुरूपयोग करके निर्दोष पति -परिवार व पुरूषों को जेल भेजने का डर (आतंक) बनाकर सामाजिक, आर्थिक, पारिवारिक व मानसिक शोषण जमकर किया जा रहा है।
4. दहेज कानून के दुरूपयोग को सुप्रीम कोर्ट ने कानूनी आतंकवाद की संज्ञा दी है।
5. संविधान की मूल भावना के विरूद्ध महिला उत्थान के नाम पर लिंग-भेद आधरित कानून बनाकर (पुरूषों को अधिकार रहित करके) पारिवारिक सभ्यता व संस्कृति को नष्ट किया जा रहा है।
6. दहेज आदि के झूठे मुकदमों में जेल गये 98 प्रतिशत व्यक्ति पर समाज द्वारा अपराधी का ठपपा लगा दिये जाने से बरी हो जाने के बाद भी वह सामान्य जीवन नहीं जी पाता है, और कई लोग तो आत्महत्या तक कर लेते हैं।
7. आत्महत्या करने वाले विवाहित पुरूषों की संख्या, विवाहित महिलाओं की तुलना में लगभग दोगुनी (एन.सी. आर.बी., भारतत सरकार के आंकड़ों के अनुसार) है। यही सच्चाई है।
8. संविधान के द्वारा प्रदत्त समानता के अधिकार का उल्लंघन किया जा रहा है।
9. सरकार महिला आयोग की तरह पुरूष आयोग क्यों नहीं बना रही है ?
10. भारत में जानवरों, बच्चों एवं महिलाओं के संरक्षण के लिए कानून है परन्तु पुरूष संरक्षण के लिए कोई कानून क्यों नहीं है ?
11. सविधान में स्त्री और पुरूष को बराबर का अधिकार है तो सिर्फ महिला संरक्षण कानून क्यों ?
12. संविधान तथा कानून में स्त्री-पुरूष बराबर, जो भरण-पोषण सिर्फ पत्नियों के लिए क्यों ?
13. IPC की धारा 498A और दहेज कानून में बदलाव की जरूरत है। ताकि उनका दुरूपयोग बन्द हो।

इसीलिए आप सभी जागरूक नागरिकों से निवेदन है कि महिला सशक्तिकरण के नाम पर बने कानूनों के दुरूपयोग से निर्दोष पति-परिवारों व पुरूषों पर हो रहे कानूनी-आतंकवाद (सामाजिक, मानसिक, पारिवारिक व आर्थिक शोषण) को समाप्त करने के लिए समय-समय पर संस्था द्वारा आयोजित होने वाले कार्यक्रमों में, अपनी उपस्थिति व सहयोग संस्था को प्रदान करें, और पति-परिवारों व पुरूषों को कानूनी-आतंकवाद के कारण आत्महत्या करने से बचाने हेतू समय में जुड़कर इस मुहिम को आगे बढ़ायें।

हम महिला सशक्तिकरण के खिलाफ नहीं, बल्कि महिला सशक्तिकरण के नाम पर निर्दोष पुरूषों के कानूनी शोषण एवं उनके कानूनी अधिकार छीन लेने के खिलाफ है।

सेव इण्डियन फेमिली (झारखण्ड)

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