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Domestic Violence against Women in India with Reference to IPC- 498 (A)

Ms. Mumdam Saring

PhD Research Scholar, Department of Education, Rajiv Gandhi University, Rono Hills, Doimukh, Arunachal Pradesh, India

Dr. Anga Padu

Associate Professor, Department of Education, Rajiv Gandhi University, Rono Hills, Doimukh, Arunachal Pradesh, India

Abstract:

Globally, domestic violence is regarded as a serious social threat issue. The Organization for Economic Cooperation and Development (OECD), an international forum reported on G20 countries in 2019 revealed that India is highest in rank with regard to domestic violence. Although, the civil law 'Protection of Women from Domestic Violence Act' (2005) is wider in its scope as it acts to protect women in all spheres, but the cases reported under Indian Penal Code (IPC) Section 498 (A) is more significant. In general, an upsurge of domestic violence is continuous and the necessity to advocate public awareness on this issue is crucial. The present paper, therefore, is an attempt to highlight domestic violence against women in India with reference to IPC- 498 (A). Finally, a conclusion has been drawn after examining the objective of the study with the support of available secondary sources of data extracted from annual reports of National Crime Reports Bureau (NCRB).

Key Words: IPC 498 (A), Domestic Violence, NCRB, Women, India.

Introduction: Domestic Violence in the context of the present study refers cruelty women face in domestic setting at the hands of their husband and his relatives. Domestic violence is associated with certain abuse such as verbal, physical, mental, sexual, neglect and intimate partner violence. Erstwhile, there was no specification in Indian legislation to deal specifically with domestic violence. However, IPC 45 of 1860 was amended in 1983 and Section 498 (A) was inserted which deals with 'matrimonial cruelty' inflicted on a woman. Moreover, the Constitution of India guarantees for certain rights irrespective of sex, caste, complexion, religion, and social status etc. However, the studies carried out by **Carpenter & Vauqueline (2016)**, **Bhatt (2018)**, **Chaudhary (2013)**, **Damdona et al. (2022)**, **Niyogi et al. (2022)**, **Pandey (2015)** and **Shukla & Tiwari (2021)** revealed that the cases of domestic violence against women is still prevalent in India despite implementation of Protection of Women from Domestic Violence Act, 2005 and Indian Penal Code Section 498 (A). **Kale**

(2018) deduced that we talk about women empowerment and women development a lot in this 21st century but there has not been any major improvement in prohibiting domestic violence against women. Although, domestic violence is a crime but sadly it has always been considered as family issue. This trending needs to be changed and it has been changing but the progress is slow. Furthermore, the recent report displayed by United Nations Development Programme (UNDP), India is at the 122nd rank among 190 countries in the parameter of Gender Inequality which indicates low equality between men and women and vice-versa. Hence, keeping in view the significant of curbing this problem many international agencies including Sustainable Development Goals (SDGs) of the 2030 Agenda for sustainable development adopted by world leaders emphasizes on gender equality under target 5. In addition, World Health Organisation (WHO), United Nation Women and bilateral agencies also published RESPECT women- a framework for prevention of domestic violence and mitigation of its associated factors in 2019. Each letter of RESPECT stands for one of seven strategies.

Objective: Both section- 498 (A) to chapter XVI, IPC (Act 46 of 1983) and Protection of Women from Domestic Violence Act, 2005 operates as custodians for women who are exposed to domestic violence. For the present study, the researcher has considered the cases reported under section 498 (A) of IPC because as per the data sets displayed by the National Crime Reports Bureau (NCRB) majority of cases reported under this is predominantly larger in comparison to that of cases reported under PWDVA, (2005). In fact, there is no data available in between 2011 to 2013 connected with PWDVA, (2005). Hence, the objective of the present study is

1. To study domestic violence against women in India with reference to IPC- 498 (A)

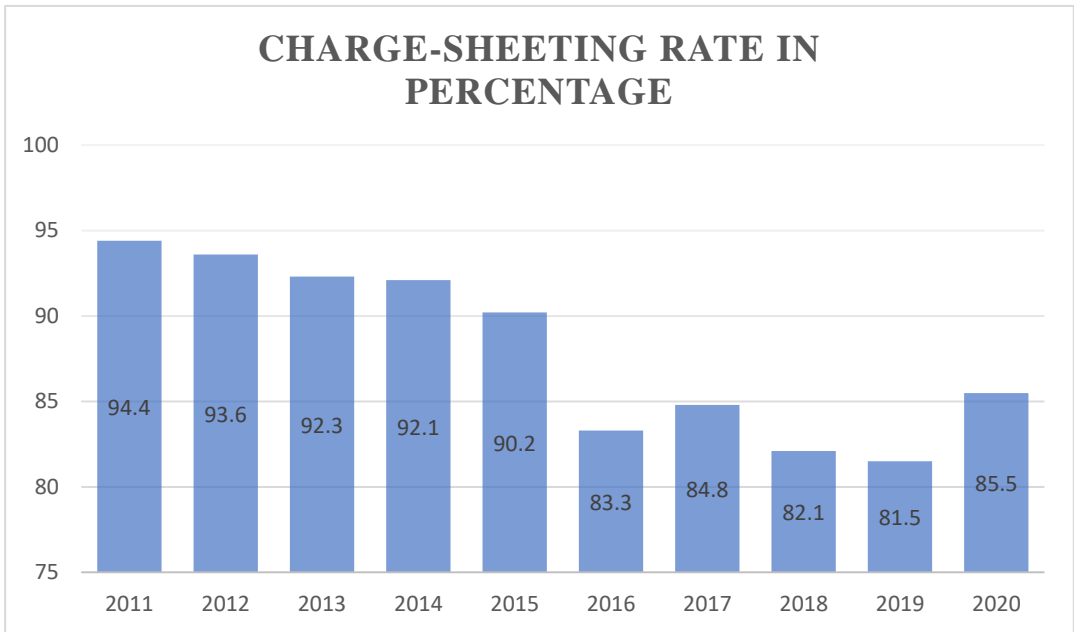
Methodology: The investigation of the present study is based on the secondary data collected from annual reports of National Crime Reports Bureau (NCRB) under domestic violence crime heading 'Cruelty by husband and his relatives' 498 (A) for the whole one decade i.e. 2011 to 2020. In addition, different articles and journals were consulted to recognize the efficacy of the IPC 498 (A) in its functioning in every nook and corner of the country India.

Findings: Based on the investigation of the annual reports published by National Crime Reports Bureau (NCRB) in 2011 to 2020, the charge-sheeting rate has been considered to investigate domestic violence faced by women. Charge-sheeting rate acts as an indicator of police performance in imposing punishment to offenders. According to the National Crime Reports Bureau (NCRB) the charge-sheeting rate of the cases reported under Cruelty by husband and his relatives IPC 498 (A) is fluctuating in its frequency but ceaseless in its prevalence. The charge-sheeting rate is based on the total number of cases reported and for which investigation is completed by the police. The charge-sheeting rate is calculated by-

$$\frac{\text{Cases charge sheeted}}{\text{Total Cases disposed off by police}} \times 100$$

Whereas,

- Cases charge sheeted means a final report prepared by police officer/investigative team after the completion of the investigation process.
- Disposed-off by police means termination of the case either by filing a final report or by filing a charge sheet.



Source: www.ncrb.gov.in

Table 1: Charge-sheeting rate of domestic violence reported under section 498 (A) from 2011 to 2020.

Discussion: Previous studies revealed various factors which are associated for the cause of domestic violence involves patriarchal social norms, under-representation of women in systematic political system, poverty, lack of legal protection and awareness etc. In addition, the NCRB data sets are based only on the registered offences which create a lacuna in comprehensive understanding of changes in frequency of domestic violence but continuous in its existence over the years. Another major source of large-scale data on domestic violence in India is published by Ministry of Health and Family Welfare under National Family Health Survey (NFHS), which gathers data from households all over India. However, the survey is conducted after every 3, 5 or 10 years, only five rounds (1992-1993, 1998-1999, 2005-2006, 2015-2016 and 2019-2021) of survey has been completed so far. Hence, it generates massive discrepancy among data sets pertaining to domestic violence. Besides, the complaints on domestic violence displayed by the National Commission for Women over the years signifies major difference in its data in comparison to other two

major sources: NCRB and NFHS. Thus, considering all these matter of contention in forefront the researcher assumes that there is a loophole in the present study which implies that many cases of domestic violence against women are remaining underreported. Note that the existence of discrepancy and loophole in the data may be due to the fact that domestic violence is very complicated in nature. Furthermore, there exists a patriarchal social structure, shame and judgement against women which restrict many women to voice for themselves. **Satyen et al. (2024)** disclosed that the prevalent of domestic violence in Indian communities is very high. It also revealed that there exists a relationship between patriarchal beliefs and experiences of domestic violence by women. **Dhawan and Bhasin (2024)** found that although many women encountered the series of domestic violence episodes, a minuscule percentage of women seek for immediate assistance to curb domestic violence. It also found that institution of marriage discriminates as it provides selective legitimacy; men to be more superior than women in every aspect of life.

Conclusion: Reports released by NCRB revealed that majority of cases are registered in a crime heading 'Cruelty by husband and his relatives' section- 498 (A) which indicates that the occurrence of domestic violence is severe in marital home. Hence, we can clearly observe that there is an acute lack in proper implementation of existing protective laws. Besides, disappointing findings highlighted that there is a maximum possibility of under-reported cases and gaps in the administrative data which may hampers stakeholders in formulating well-informed strategies and interventions to curb domestic violence in India. Nonetheless, many researches in this field have suggested various resolutions in eliminating the menace of domestic violence such as enrolment of women in police force as a part of gender-aware approach and sensitize women their rights and protective laws. With such suggestions and recommendations if implement properly the oscillation in number of cases reported under the IPC 498 (A) may decrease hopefully. The case of domestic violence has always been more of family matter rather than a legitimate crime in the majority of households in India. However, the reporting and legal action against perpetrators of domestic violence will increase if awareness about IPC Section 498 (A) including various protection rights of women are disseminate through campaigns, conferences, workshops, and use of mass media. In addition, it is a legit need to bring about a change in thinking and behaviour of the intimate partner or any other individual who inflict such crime against women. **Sihag (2018)** reported that the rise of domestic violence against women is noticeable despite lawful efforts implemented by the Government to curtail the menace of domestic violence against women. Furthermore, it suggested to educate women about her rights, provisions of strict laws, protective laws and punishment for offence of domestic violence. Underlying causes and risks associated with domestic violence needs to be addressed and domestic violence should rather be called as public health problem and not a family issue. **Kaur (2019)** revealed that the causes of domestic violence is deeply rooted and inherited in cultural, religious and social beliefs, as a result unequal opportunities to women to education, freedom, participation and other various aspects of life. Hence, civil society has a crucial role to play in curbing domestic violence by changing the attitude

towards women in the society. Mental awakening of masses through educational campaigns and mass media should be encouraged. Moreover, factors associated with domestic violence such as socio-economic issue leading to crime should be highlighted and stakeholders must work on bringing more positive attitude towards women and their role in the society.

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