

gambling and other vices and thereby starved his wife and infant child to death. This was held to be amounting to cruelty under section 498A.²³

[s 498A.8] **Calling wife "barren woman".—**

It was alleged that, as the deceased did not beget children for a period of three years after the marriage, accused harassed the deceased by calling her "barren woman". It was held that mere commenting that deceased was not begetting children, does not amount to subjecting the deceased to cruelty within the meaning of [section 498A IPC, 1860](#).²⁴

[s 498A.9] **Cruelty by persistent demand.—**

Cruelty or harassment need not be physical. Mental torture may amount to cruelty in a given situation. The bride, in this case, was repeatedly taunted, maltreated and mentally tortured right from the next day of marriage. There was a quarrel between her and the husband only a day before her death. This led the bride to commit suicide. Presumption as to dowry death under [section 113B, Indian Evidence Act, 1872](#) became applicable. There was no rebuttal from the side of the accused husband.²⁵

[s 498A.10] **Cognizance on Police Report.—**

[Section 198A of Code of Criminal procedure \(Cr PC\), 1973](#) permits a Court to take cognizance of offence punishable under section 498A upon a police report of facts which constitute offence. Explanation to section 2(d) makes it clear that a report made by a police officer after investigation of a non-cognizable offence is to be treated as a complaint and the officer by whom such a report is made is to be deemed to be the complainant. Thus, if a complaint contains allegations about commission of offence under [section 498A of the IPC, 1860](#) which is a cognizable offence, apart from allegations about the commission of offence under [section 494 of the IPC, 1860](#) the Court can take cognizance thereof even on a police report. No fetters can be put on the police preventing them from investigating the complaint which alleges offence under [section 498A of the IPC, 1860](#) and also offence under [section 494 of the IPC, 1860](#).²⁶

[s 498A.11] **Cruelty by extra-marital relations.—**

To the question whether 'extra-marital relationship' could be considered as 'cruelty' under [section 498A IPC, 1860](#) had arisen, the Supreme Court has answered the question in negative. Mere fact that the husband has developed some intimacy with another, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to "cruelty", but it must be of such a nature as is likely to drive the spouse to commit suicide to fall within the explanation to [section 498A IPC, 1860](#).²⁷ Courts should carefully assess the facts of each case before deciding whether the cruelty meted out to the victim which induces her to commit suicide. The accused continued his relation with another woman and his illicit relation with another woman would have definitely created the psychological imbalance to the deceased which led her to take the extreme step of committing suicide. The conviction of accused under [sections 498-A and 306, IPC](#) was held proper.²⁸ In *Laxman Ram Mane v State of Maharashtra*,²⁹ it was held that an illicit relationship of a married man with another woman would clearly amount to cruelty within the meaning of section 498A. Even assuming for a moment that this did not amount to cruelty within the meaning of section 498A, it could still be used as a piece of evidence of harassment and misbehaviour of the appellant towards the deceased. The act of the husband in bringing a concubine to his house, living with her as husband and wife, and having sexual relations in the presence of his wife, amounts to 'cruelty' within the meaning of [section 498A of IPC, 1860](#).³⁰ Permitting the first wife to enter the house of deceased with new born child does not amount to a cruel act to the second wife as such act

cannot amount to cruelty within the meaning of second limb of clause (a) of the Explanation under [section 498A, IPC, 1860](#).³¹.

[s 498A.12] Harassment and bigamy.—

The wife filed an FIR alleging harassment and bigamy by the accused husband. The fact was that the second marriage was performed by the accused husband after the first marriage was dissolved. The affidavit filed by the wife did not state that the divorce decree had been either stayed or set aside. Thus, ingredients of the offence of bigamy were not made out. The affidavit was also silent about harassment for dowry demand. It was held that the FIR was frivolous, vexatious, unwarranted and abuse of process.³².

[s 498A.13] Harassment for non-dowry demand.—

Four years after the marriage, the wife was called upon to bring some money from her parents for sending her husband's younger brother abroad. It could not be termed as a dowry demand, but because she was harassed for it and on account of this she became compelled to end her life, it was held that an offence under section 498A was made out.³³. Section 498A does not specifically speak of a dowry demand. It speaks only of unlawful demand for property and valuable articles.³⁴.

[s 498A.14] Cruelty by non-acceptance of baby girl.—

The conduct of the accused husband and his father in not accepting the birth of the baby girl was held as amounting to cruelty.³⁵.

[s 498A.15] Demand of son in adoption.—

The Supreme Court has held that the demand of a son in adoption did not amount to a dowry demand so as to attract the provisions of section 498A.³⁶.

[s 498A.16] Act of remaining silent.—

The allegation was that accused Nos. 2 and 4 did not come forward to participate in the settlement of the dowry on the ground that they belonged to the groom's family and remained silent. The act of remaining silent with regard to the settlement of the dowry demand will not amount to cruelty within the meaning of either clause (a) or clause (b) of the Explanation of [section 498A IPC, 1860](#).³⁷.

[s 498A.17] Cruelty by false attacks on chastity.—

The father-in-law and the husband were shown to demand dowry though their demand was met by stepfather of the girl at the time of marriage. They also attacked her chastity when there was no reasonable ground for it. Homicidal death of the wife took place within five months of marriage. The Court said that all this amounted to cruelty within the meaning of section 498A.³⁸.

[s 498A.18] Taking away children.—

The act of the husband in taking away the minor child without the consent of the wife was held as not amounting to cruelty for the purposes of section 498A.³⁹.

[s 498A.19] Outraging of modesty by father-in-law.—

Trying to outrage the modesty of a married woman in her matrimonial house, by her father-in-law also amounts cruelty as defined under [section 498A IPC, 1860](#).⁴⁰.

[s 498A.20] Demand for looking after aged in-laws.—

A difference of opinion within family on everyday mundane matters would not fall within the category of cruelty. Merely because the appellants were of the opinion that the deceased, as a good daughter-in-law, should look after them in old age could not be said to be an abetment of suicide.^{41.}

[s 498A.21] Mere demand of dowry an offence.—

Mere demand of dowry will not attract an offence under [section 498-A IPC, 1860](#).^{42.} From a single instance of the accused stating that he had received meagre dowry, it could not be inferred that he demanded dowry and maltreated his deceased wife on that count.^{43.} In the absence of any agreement or settlement for dowry at the time of marriage, a demand constitutes no offence. The demand must come within the definition of dowry.^{44.}

Mere harassment or mere demand for property, etc., is not cruelty. It is only where harassment is shown to have been caused for the purpose of coercing a woman to meet demands that it amounts to a cruelty which has been made punishable under the section.

[s 498A.22] Presumption of cruel treatment.—

The wife of the accused committed suicide by jumping into a well. Her father testified that the neighbours told him of the sounds of a quarrel going on in the family on the fateful night. He testified that she was ill-treated for dowry and for being issueless. She attempted to jump into the same well earlier also. The ill-treatment did not stop even after she bore two sons. The Court said that a presumption could be raised that the ill-treatment continued unabated till the last moment of her decision to put an end to her life.^{45.}

The presumption of cruelty within the meaning of [section 113A, Indian Evidence Act, 1872](#) also arose making the husband guilty of abetment of suicide within the meaning of section 306 where the husband had illicit relationship with another woman and used to beat his wife making it a persistent cruelty within the meaning of Explanation (a) of section 498A.^{46.}

[s 498A.23] Harassment.—

There should be sufficient nexus between incidents to constitute harassment. The accused was convicted of harassment under the Protection from Harassment Act, 1997 [English] section 2 following two incidents separated by a period of four months in which he first slapped his former girlfriend and later on threatened her companion. He appealed by way of case stated on the basis that there had to exist a sufficient nexus between the incidents complained of so as to give rise to a "course of conduct" for the purposes of section 7(3). His appeal was allowed. The Court said that whilst no more than two incidents were needed to constitute harassment, the fewer the number of incidents and the wider the time lapse, the less likely such a finding would be justified. On the facts of the instant case there was insufficient evidence upon which the finding of harassment could be proved.^{47.}

[s 498A.24] Every kind of harassment not covered.—

It is not every harassment or every type of cruelty that would attract section 498A. The complainant has conclusively to establish that the beating and harassment in question was with a view to force her to commit suicide or to fulfil the illegal demand of dowry. In this case, though there might have been a previous history of harassment for those purposes, at the moment of the complaint those urges were not proved to be figuring in the harassment.^{48.} Where the deceased was asked to part with her jewellery and

valuables for the marriage of her sister-in-law but the matter was not pressed further on her refusal and there was no harassment or coercion by her in-laws, it was held that it did not amount to cruelty.^{49.}

A husband who does not call his wife back to the matrimonial home does not thereby cause any harassment.^{50.} Where the deceased wife was told not to attend kitchen as a measure for prevention of wastage, this was held to be no cruelty.^{51.}

The remarks passed by the mother-in-law that the daughter-in-law was not beautiful were held to be not sufficient to drive anybody to suicide. There was no evidence of cruelty or deprivation.^{52.} The mere statements in the dying declaration that she wanted to live separately, her husband gave her a beating the previous day and her grandmother disliked her were held to be not sufficient to substantiate the prosecution case that cruel treatment was meted out to her so as to constitute an offence under section 498A.^{53.}

Where the deceased wife's annoyance was due to the fact that the children of a relative were being looked after in her husband's home, the Court said that it did not amount to cruelty or harassment because of dowry demand.^{54.}

[s 498A.25] **Kicking daughter-in-law.—**

A three-judge Bench of the Supreme Court by order dated 14 March 2013 set aside its own judgment in *Bhaskar Lal Sharma v Monica*,^{55.} which held that the action of a woman merely kicking her daughter-in-law or threatening her with divorce would not come within the meaning of "cruelty" under [section 498A of the IPC, 1860](#). The Supreme Court allowed the curative petition filed by the National Commission directed restoration of the special leave petition (SLP) filed by Bhaskar Lal Sharma and his wife for a fresh hearing.

[s 498A.26] **Wife's desire to stay separately.—**

Howsoever strong the desire of wife might be of staying separately, and howsoever genuine her grief would be for having been required to stay in a joint family, the same cannot constitute as "wilful conduct" of the appellants which was likely to drive wife to commit suicide.^{56.}

[s 498A.27] **Make section 498A compoundable.—**

Offence under section 498A is not compoundable except in the State of Andhra Pradesh where by a State amendment, it has been made compoundable. In *Ramgopal v State of MP*,^{57.} the Supreme Court requested the Law Commission and the Government of India to examine whether offence punishable under [section 498A of the IPC, 1860](#) could be made compoundable. The Commission has given a comprehensive report (237th Report) under the title of "Compounding of [IPC Offences](#)" recommending that that the offence under section 498A should be made a compoundable offence with the permission of Court. But it has not been made compoundable yet.

[s 498A.28] **Complaint filed after institution of suit.—**

A complaint was lodged by the wife under the section after a divorce suit was filed by her husband. In her written statement to the suit, the wife made no allegations of cruelty or harassment. In the meantime, the divorce was decreed and her application for reconciliation was rejected by the family Court, the complainant wife had also been living with her mother for a long time. Thus, no case was made out and the husband was entitled to acquittal.^{58.}

Where the marriage was already 10 years old at the time of the incident of suicide by taking poison and there was neither any record of cruelty or harassment, nor any sign of forcible administration of poison, the conviction of the accused husband was held to be not proper.⁵⁹

[s 498A.29] Past cruelty.—

The Supreme Court has given this observation that both [section 498A, IPC, 1860](#) and [section 113A, Indian Evidence Act, 1872](#) include in their amplitude past events of cruelty. The period of operation of [section 113A, Indian Evidence Act, 1872](#) is seven years. The presumption of suicide by a married woman arises when it takes place within seven years from the date of marriage.

[s 498A.30] Section 498A and 304B.—

The two provisions are not mutually inclusive. They deal with different and distinct offences. Persons charged under section 304B but acquitted can be convicted under section 498A even in the absence of any charge.⁶⁰ The deceased had been subjected to cruelty by her husband and mother-in-law over the demand of a Maruti Car as dowry and persistently pressed by them after about six months of the marriage and continuously till her death. Accused was convicted under [sections 498A and 304 IPC, 1860](#).⁶¹

[s 498A.31] Sections 498A and 306.—

Distinction between [sections 306 IPC](#) and [section 498A IPC](#) is that of intention. Under the latter, cruelty committed by the husband of his relations drag the woman concerned to commit suicide, while under the former provision suicide is abetted and intended.⁶²

Offences under [sections 498A and 306 of IPC, 1860](#). Trial court acquitted of the offence under [section 498A IPC, 1860](#). It was argued that the acquittal of the accused of the offence under [section 498A IPC, 1860](#) has bearing on the offence under [section 306 IPC, 1860](#). The Supreme Court held that having absolved the appellants of the charge of cruelty, which is the most basic ingredient for the offence made out under section 498A, the third ingredient for application of [section 113A of Indian Evidence Act, 1872](#) is missing, namely, that the relatives, i.e., the mother-in-law and father-in-law who are charged under section 306 had subjected the victim to cruelty.⁶³

[s 498A.32] Jurisdiction.—

A wife, maltreated for dowry, was sent back to her father where she became ill because of shock and after effects of cruelty. The Court having jurisdiction at the place was held competent to entertain a complaint both under section 498A in respect of cruelty and also under [section 181\(4\) of Cr PC, 1973](#) in respect of misappropriation of *streedhan*.⁶⁴ In *Dukhi Ram v State of UP*,⁶⁵ the Court observed that the scope of section 498A cannot be extended to co-villagers. Order summoning co-villagers for offence under section 498A amounts to abuse of process of Court. The order of the Magistrate was quashed.

[s 498A.33] Territorial Jurisdiction.—

Where the complaint by the aggrieved wife regarding ill-treatment by husband and in-laws was filed at a place where she was residing with her mother and the act subjecting her to cruelty occurred at some other place, it was held that the Magistrate at that place had no territorial jurisdiction to take cognizance of the offence under section 498A. The plea that her husband and sister-in-law visited that place and subjected her to cruelty was not substantiated.⁶⁶ In a prosecution for criminal breach

of trust and cruelty to wife, the facts were that the marriage had taken at one place where also all the items of dowry were handed over. Breach of trust and ill-treatment were committed at the husband's place. Thus, the offence was committed beyond the territorial jurisdiction of the magistrate at the place of marriage. Still it was held that he had jurisdiction because a part of the cause of action had arisen at that place.⁶⁷ In a case, as a consequence of ill-treatment inflicted upon the complainant from time to time and demand of dowry, she was thrown out of her matrimonial home at Delhi and as a result of that she was compelled to come and reside with her father at Bharatpur. It was held that the police station/Court situated at Bharatpur has also jurisdiction to inquire into or try the offence allegedly committed by the petitioners. [Section 179 Cr PC, 1973](#) makes it clear that if anything happened as a consequence of the offence, the same may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.⁶⁸ The Supreme Court in *Sunita Kumari Kashyap v State of Bihar*,⁶⁹ with almost similar set of facts came to a conclusion that the Court situated at Gaya also has jurisdiction to proceed with the criminal proceedings initiated on behalf of the complainant although the ill treatment upon the complainant in connection with demand of dowry was mainly inflicted at her matrimonial home situated at Ranchi because as a result of continuous torture and unbearable treatment of her husband and in-laws the complainant had no other option, but to come at her parental home situated at Gaya. The Supreme Court for arriving such a conclusion relied upon the case of *Sujata Mukherjee v Prashant Kumar Mukherjee*,⁷⁰ and *State of MP v Suresh Kaushal*,⁷¹ but distinguished these cases being based on different set of facts.

[s 498A.34] Suicide by mistress.—

If the cruelty or harassment of the kind described in the Act is meted out to a mistress which leads her to commit suicide, the section would cover her case also.⁷²

[s 498A.35] Retrospective Effect of Section 498A.—

A dowry harassment which had ended in March 1983 by the husband deserting his wife before the new provision came into force in 1983 was held to be not covered by it. This provision does not have retrospective effect.⁷³ Where the relationship of marriage is still continuing, the events of cruelty taking place prior to the amendment can be taken into account. That does not have the effect of giving a retrospective operation to the provision.⁷⁴

[s 498A.36] Compromise.—

Where the wife had condoned the matrimonial cruelty of which she was the victim and had resumed consortium with her husband, the Court found no obstruction in the provisions of the section in permitting them to compound the complaint and, therefore, ordered accordingly.⁷⁵ In *D Jayalakshmi v State of MP*,⁷⁶ it was held that in a complaint under section 498A a compromise between husband and wife was permissible even though the offence is non-compoundable. It added that in exceptional circumstances only the High Court can permit compounding of a non-compoundable offence under its inherent powers. The offence under the section cannot be compounded by invoking inherent powers and by praying for quashing of proceedings on the ground of amicable settlement. The remedy of the parties is to take recourse to [sections 321 or 257, Cr PC, 1973](#) and seek withdrawal of the case.⁷⁷ The offence cannot be compounded on the basis of consent divorce under [section 13-B of the Hindu Marriage Act, 1955](#). The proceedings were, however, quashed under [section 482, Cr PC, 1973](#) to prevent abuse of judicial process.⁷⁸ During the pendency of the prosecution, the husband and wife sorted out their differences and obtained a consent divorce as per their compromise. The Court said that in the light of facts as they

developed, the ends of justice would be served by reducing the term of imprisonment to the period already undergone.^{79.}

Compromise should be accepted as a basis for withdrawal or quashing of complaint at the instance of the complainant.^{80.}

[s 498A.37] **Explanation.**—

Clause (a).—In *RP Bidlan v State of Maharashtra*,^{81.} it was held that under section 498A, Explanation (a), for proof of cruelty it is necessary to show a reasonable nexus between cruelty and suicide. Mere proof of cruelty or suicide is not enough. There is no vagueness or obscurity about the meaning of the word "cruelty" as spelt out in clauses (a) and (b) of the Explanations. The definition sub-serves the object sought to be achieved.^{82.}

[s 498A.38] **Meaning of the term 'relative of the husband'—whether include a 'girlfriend' or 'concubine'?.—**

An offence in terms of section 498A is committed by the persons specified therein. They have to be the 'husband' or his 'relative'. Either the husband of the woman or his relative must be subjected to her to cruelty within the aforementioned provision. In the absence of any statutory definition, the term 'relative' must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word 'relative' would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption. By no stretch of imagination a girlfriend or even a concubine in an etymological sense would be a 'relative'. The word 'relative' brings within its purview a status. Such a status must be conferred by either blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.^{83.} A complaint was filed against the husband and his relatives because of demand for dowry. Shia law was applicable to the parties. The husband had divorced the complaining wife by "talak". Under the Shia law there is prohibition on marrying the woman whom one had earlier divorced. Thus, even if they were living together, they could not be called husband and wife. Section 498A was not applicable. The complaint was liable to be dismissed.^{84.}

[s 498A.39] **Is Section 498A applicable to cruelty against "legally wedded wife" only?**
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A person who enters into marital arrangement cannot be allowed to take shelter behind the smoke screen of contention that since there was no valid marriage the question of dowry does not arise. The word "husband" would apply to a person who enters into marital relationship and under the colour of such proclaimed or feigned status of husband subjects the woman concerned to cruelty or coerces her in any manner or for any purposes enumerated in sections 304B and 498A, whatever be the legitimacy of the marriage itself. A person contracting second marriage during the subsistence of the earlier marriage can be charged under sections 304B and 498A. The Court pressed into service the *Heyden's* rule of construction which means purposive construction and mischief rule.^{85.} [Section 498A of the IPC](#) refers to word 'woman' and not to 'wife' and by the said section protection was contemplated to married woman and not to the legally wedded wife only. Where accused and deceased were residing together and the evidence proved that marriage of accused and deceased took place by 'sulagna procedure', the contention of the accused that deceased was not his legally wedded wife as there was no evidence of valid marriage between them to attract the provisions of section 498A, cannot be accepted.^{86.}

[s 498A.40] **Explanation.—Clause (b).—**

Where the deceased bride was subjected to cruelty and harassment and demand of dowry and she was burnt to death within two years of her marriage, her earlier statements about her state of affairs to her father and neighbours and her sister were held to be admissible under clause (b) of the Explanation to section 498A and conviction of the accused under section 498A was held to be proper.^{87.}

The basic ingredients of section 498A are cruelty and harassment. The Supreme Court further held that in Explanation II, which relates to harassment, there is absence of the requirement of physical injury but it includes coercive harassment for demand of dowry. It deals with the patent or latent acts of the husband or his family members.^{88.}

In a case the Supreme Court held that:

unless the statement of a dead person would fall within the purview of [s. 32\(1\) of the Indian Evidence Act](#) there is no other provision under which the same can be admitted in evidence. In order to make the statement of a dead person admissible in law (written or verbal) the statement must be as to the cause of her death or as to any of the circumstance of the transactions which resulted in her death, in cases in which the cause of death comes into question. By no stretch of imagination can the statements of deceased contained in the two letters and those quoted by the witnesses be connected with any circumstance of the transaction which resulted in her death. Even that apart, when dealing with an offence [u/s. 498A IPC](#) disjunctured from the offence [u/s. 306 IPC](#) the question of her death is not an issue for consideration and on that premise also [s. 32\(1\) of the Evidence Act](#) will stand at bay so far as these materials are concerned.^{89.}

[s 498A.41] **Punishment.—**

The accused contracted second marriage. He maltreated the first wife and denied her diet, thus, subjecting her to mental and physical cruelty of extreme level and leading her to suicide. He was not entitled to any sympathy. He was sentenced to undergo two years RI for offence under section 498A and five years under section 306 and also fine.^{90.}

The wife of the accused died of burns. Her letters indicated anguish about various incidents and methods of harassment practised upon her. Filthiest language was used in expressing the demand for dowry. There was oral evidence of the prosecution witness to that effect. This section does not require harassment soon before death. The Court said that the offence under the section was made out. The sentence of imprisonment of three years was reduced to three months in the interest of the children and their safety in the society.^{91.}

[s 498A.42] **Plea of leniency.—**

Where there was a history of the wife being continuously subjected to harassment, assault and torture to the point of leaving no option to committing suicide and the accused-husband was a police officer and an educated person, it was held that he could not be allowed to escape jail sentence.^{92.} The deceased-wife within four months of her marriage took the extreme step of putting an end of her life and committed suicide. The court held that it was not a fit case for reducing the quantum of sentence of the accused as showing any leniency would be a misplaced one.^{93.}

In the context of simple imprisonment of six months, it was pleaded before the Supreme Court that the appellant and the victim had since remarried and were living happily in their respective families, the Court reduced imprisonment to the period of two months already undergone.^{94.}

[s 498A.43] **Misuse of section 498-A.—**

The section was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman. The expression 'cruelty' therein covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. The Supreme Court observed that it is a matter of serious concern that large number of cases continue to be filed under this section alleging harassment of married women. Most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not *bona fide*. At the time of filing of the complaint, implications and consequences are not visualised. But at times such complaints lead to uncalled for harassment not only to the accused but also to the complainant.⁹⁵ The provision should not be allowed to be used as a device for achieving oblique motives.⁹⁶

[s 498A.44] **Misuse of provisions to be prevented.—**

The Supreme Court has observed that the section was introduced with the avowed object of combating the menace of dowry deaths and harassment of a woman at the hands of her in-laws. But the provision should not be allowed to be used as a device for achieving oblique motives.⁹⁷

[s 498A.45] **CASES.—**

Where there is ample evidence on record to suggest that the deceased had been suffering from psychosis/mental disorder, it was held not safe to convict the accused under [sections 306](#) and [498A IPC, 1860](#).⁹⁸ Where the suicide note exonerated the husband and his relatives, accused cannot be convicted under section 498A.⁹⁹ Where mother of deceased had admitted in her evidence that there was no demand of dowry had been made by mother-in-law of the deceased, she is entitled to benefit of doubt.¹⁰⁰ Where the accused mother-in-law was residing in a separate residence far away from the place where deceased with her husband was residing and the evidence of independent witness proved that parents of deceased's husband had never visited their place during their stay in the said house, accused is entitled to benefit of doubt.

Where a husband had strangled his second wife to death within a short span of time immediately after her marriage and the cruelty and harassment on the part of the husband was proved from the evidence of the witnesses, the conviction of the husband under section 498A was confirmed.¹⁰¹

A harassment shown to have taken place eight months before the suicide, was held to be not coming within the scope of the words "soon before". The conviction under section 304B was set aside. The evidence showed that cruelty was there. The accused persons were not able to explain why the deceased wife committed suicide. The conviction and sentence under section 306 (abetment of suicide), [section 498A](#) and [section 4](#) of the [Dowry Prohibition Act, 1961](#) was maintained.¹⁰²

[s 498A.46] **Limitation.—**

For the offence of cruelty under section 498A cognizance can be taken even after the expiry of the period of limitation by virtue of the provisions of [section 473, Cr PC, 1973](#) since the offence is of continuing nature. There was nothing on record to show that more than three years ago prior to the filing of the complaint the accused had returned the dowry items demanded by the complainant. The complaint under [section 406 IPC, 1860](#) was not time-barred. The offence under [section 405, IPC, 1860](#) was committed as and when the accused refused to return the dowry items on demand and misappropriate them.¹⁰³

A complaint under the section was dismissed by the trial Court on the ground that it was belated by two years. On the same ground the High Court declined leave to appeal against acquittal. The Supreme Court held that this was not proper. The section was brought in to protect woman against torture. The law of limitation must not be applied with such rigidity as to non-suit an aggrieved wife.^{104.}

A complaint alleged cruelty by the husband and his relatives. The question was that of limitation for filing a complaint. The Court said that cruelty is a continuing offence. With every act of cruelty a new period of limitation takes a start. The wife was harassed and sent out of the matrimonial home. A complaint, even if time-barred, could be entertained if otherwise it would give an unfair advantage to the accused person or result in miscarriage of justice.^{105.}

[s 498A.47] A re-look at the provision.—Supreme Court direction and recommendations of Law commission of India.—

In *Preeti Gupta v State of Jharkhand*,^{106.} the Supreme Court held 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. Pursuant to the direction of the Supreme Court, Law Commission of India in its 243rd Report gave *inter alia* the following suggestions:

- (a) The offence under section 498A shall be made compoundable, with the permission of Court and subject to cooling off period of three months
- (b) The offence should remain non-bailable. However, the safeguard against arbitrary and unwarranted arrests lies in strictly observing the letter and spirit of the conditions laid down in [sections 41 and 41A of Cr PC, 1973](#) relating to power of arrest and sensitising the Police on the modalities to be observed in cases of this nature
- (c) There should be a monitoring mechanism in the Police Dept. to keep track of section 498A cases and the observance of guidelines
- (d) the need for expeditious disposal of cases under section 498A should be given special attention by the prosecution and Judiciary.^{107.}

[s 498A.48] [Protection of Women from Domestic Violence Act, 2005](#).—

The [Protection of Women from Domestic Violence Act, 2005](#) was enacted with a view to provide for more effective protection of rights of women who are victims of violence of any kind occurring within the family. Those rights are essentially of civil nature with a mix of penal provisions. Section 3 of the Act defines domestic violence in very wide terms. It encompasses the situations set out in the definition of 'cruelty' under section 498A. The Act has devised an elaborate machinery to safeguard the interests of women subjected to domestic violence. The Act enjoins the appointment of Protection Officers who will be under the control and supervision of a Judicial Magistrate of First Class. The said officer shall send a domestic incident report to the Magistrate, the police station and service providers. The Protection Officers are required to effectively