

assist and guide the complainant victim and provide shelter, medical facilities, legal aid, etc., and also act on her behalf to present an application to the Magistrate for one or more reliefs under the Act. The Magistrate is required to hear the application ordinarily within three days from the date of its receipt. The Magistrate may at any stage of the proceedings direct the respondent and/or the aggrieved person to undergo counselling with a service provider. 'Service Providers' are those who conform to the requirements of section 10 of the Act. The Magistrate can also secure the services of a welfare expert preferably a woman for the purpose of assisting him. Under section 18, the Magistrate, after giving an opportunity of hearing to the Respondent and on being *prima facie* satisfied that domestic violence has taken place or is likely to take place, is empowered to pass a protection order prohibiting the Respondent from committing any act of domestic violence and/or aiding or abetting all acts of domestic violence. There are other powers vested in the Magistrate including granting residence orders and monetary reliefs. Section 23 further empowers the Magistrate to pass such interim order as he deems just and proper including an *ex parte* order. The breach of protection order by the respondent is regarded as an offence which is cognizable and non-bailable and punishable with imprisonment extending to one year (*vide* section 31). By the same section, the Magistrate is also empowered to frame charges under [section 498A of IPC, 1860](#) and/or [Dowry Prohibition Act, 1961](#). The provisions of the Act are supplemental to the provisions of any other law in force. The right to file a complaint under section 498A is specifically preserved under section 5 of the Act. An interplay of the provisions of this Act and the proceedings under section 498A assumes some relevance on two aspects: (1) Seeking Magistrate's expeditious intervention by way of passing a protective interim order to prevent secondary victimisation of a complainant who has lodged FIR under section 498A. (2) Paving the way for counselling process under the supervision of Magistrate at the earliest opportunity.¹⁰⁸

1. Chapter XXA (containing section 498A) ins. by Act 46 of 1983, section 2 (w.e.f. 25 December 1983).
2. *Suvetha v State*, (2009) 6 SCC 757 [LNIND 2009 SC 1156] : 2009 Cr LJ 2974 .
3. *Reema Aggarwal v Anupam*, (2004) 3 SCC 199 [LNIND 2004 SC 1499] : AIR 2004 SC 1418 [LNIND 2004 SC 1499] .
4. *Gananath Pattnaik v State of Orissa*, (2002) 2 SCC 619 [LNIND 2002 SC 100] .
5. *Pinakin Mahipatray Rawal v State of Gujarat*, 2013 (3) Mad LJ (CrI) 700 : 2013 AIR (SCW) 5219.
6. *Rosamma Kurian v State of Kerala*, 2014 Cr LJ 2666 (Ker) : 2014 (2) KHC 64 .
7. *Vajresh Venkatray Anvekar v State of Karnataka*, AIR 2013 SC 329 [LNIND 2013 SC 4] : (2013) 3 SCC 462 [LNIND 2013 SC 4] .
8. *Wazir Chand v State of Haryana*, AIR 1989 SC 378 [LNIND 1988 SC 569] : 1989 Cr LJ 809 : (1989) 1 SCC 244 [LNIND 1988 SC 569] ; *U Suvetha v State*, (2009) 6 SCC 757 [LNIND 2009 SC 1156] : 2009 Cr LJ 2974 , ingredients re-enumerated by the Supreme Court. *Bhaskar Lal Sharma v Monica*, (2009) 10 SCC 604 [LNIND 2009 SC 1432] : (2009) 161 DLT 739 , misuse of anti-dowry law not to be allowed. A girlfriend of the husband or a concubine being in the category of relatives of the husband are not covered by section 498-A. *Narendra v State of Karnataka*, (2009) 6 SCC 61 [LNIND 2009 SC 1112] : (2009) 2 SCC (Cr) 929 : AIR 2009 SC 1881 [LNIND 2009 SC 1112] , death of wife in bed room due to compression of neck, husband's *alibi* plea found to be false, no two opinions, conviction. *Krishna Ghose v State of WB*, (2009) 12 SCC 413 [LNIND 2009

[SC 724](#)] : [AIR 2009 SC 2279](#) [[LNIND 2009 SC 724](#)] , death due to cruelty by husband and family members in the matrimonial home, *alibi* false, conviction.

9. *Shobha Rani v Madhukar Reddi*, (1988) 1 SCC 105 [[LNIND 1987 SC 757](#)] : [AIR 1988 SC 121](#) [[LNIND 1987 SC 757](#)] : (1988) 1 AIR 169 : [1988 BLJR 138](#) . See also *Akula Ravinder v State of AP*, [AIR 1991 SC 1142](#) . For a comparative account of this section with section 304B see notes under section 304B and the decision of the Supreme Court in *Shanti v State of Haryana*, [AIR 1991 SC 1226](#) [[LNIND 1990 SC 696](#)] . For another proceeding arising out of harassment of wife and acceptance of compromise by the Supreme Court on payment of compensation to the wife to end all proceedings, see *Mukund Martand Chitnis v Madhuri Mukund Chitnis*, 1991 Supp (2) SCC 359 . See also *Suman v State of Rajasthan*, (2010) 1 SCC (Cr) 770 : (2010) 1 SCC 250 [[LNIND 2009 SC 1991](#)] : [AIR 2010 SC 518](#) [[LNIND 2009 SC 1991](#)] .

10. *Chanda v State of AP*, [1996 Cr LJ 2670](#) (AP). RI for three years and fine of Rs. 5,000. *Chandra Prakash v State*, [1996 Cr LJ 3443](#) (Del) a proceeding was not allowed to be quashed only on the ground that allegations in detail of dowry demand and cruelty were not made in a pending divorce proceedings between the parties. *Noorjahan v State*, (2008) 11 SCC 55 [[LNIND 2008 SC 950](#)] : [AIR 2008 SC 2131](#) [[LNIND 2008 SC 950](#)] , object restated, crimes against women and children. There was no proof in this case of any demand for dowry.

11. *Keshab Chandra Panda v State of Orissa*, (1995) 1 Cr LJ 174 (Ori). Where the mother-in-law was convicted for the lesser offence under s 498A, it was an automatic acquittal from the serious offence under section 304-B, no appeal by State, High Court could not convict; *Prakash Chander v State*, (1995) 1 Cr LJ 368 (Del). *State of Kerala v Rajayyan*, (1995) 1 Cr LJ 989 (Ker) death by falling in well, proof of dowry-related cruelty, conviction. *Deepak v State of Maharashtra*, (1995) 2 Cr LJ 2219 (Bom) wife killed by strangulation, defence of injury by a falling object unnatural, conviction held proper. *Gondhan Ram v State of Rajasthan*, (1995) 1 Cr LJ 273 (Raj), married woman dying of spray poison which she consumed, within seven years, evidence of torture, conviction of husband alone. *Jai Ram v State of Rajasthan*, (1995) 1 Cr LJ 1020 (Raj) conviction of husband on evidence which was rejected in reference to all others was held to be not proper. *Chandrabhushan v State of Maharashtra*, (1995) 1 Cr LJ 101 (Bom) conviction of husband for leading wife to suicide by mental torture for dowry, but others not convicted because the couple was living separately. *Gajanansingh v State of Maharashtra*, [1996 Cr LJ 2921](#) (Bom) no proof that the husband caused death, acquittal. *Pammi Bai v State of MP*, [1996 Cr LJ 2796](#) (MP), death by burning, the conduct of the dying woman immediately after the incident not pointing to the husband setting her on fire, dying declaration doubtful and suspicious, acquittal.

12. *Pachipala Laxmaiah v State of AP*, [2001 Cr LJ 4063](#) (AP); another similar case *Hariappari v State of Karnataka*, [2001 Cr LJ 4286](#) (Kant), burnt by the husband, conviction. *Dasrath Sao v State of Bihar*, [2001 Cr LJ 4336](#) (Jhar) suicide by hanging, no proof of dowry demand or of cruelty or abetment, acquittal. *Shaik China Buda v State of AP*, [2002 Cr LJ 526](#) , no proof of cruelty, acquittal of husband.

13. *Kodadi Srinivasa Lingam v State of AP*, [2001 Cr LJ 602](#) (AP). *Bammidi Rajamallu v State of AP*, [2001 Cr LJ 1319](#) (AP), drinking husband, beating wife and consistently abusing her, cruelty under the section. *Vanamala Amaranadh v State of AP*, 2001 4498, dying declaration contained statements of cruelty, husband convicted. *State of Haryana v Jai Prakash*, [2000 Cr LJ 4995](#) (2) : (2000) 7 JT 404 (SC), no proper evidence, acquittal, appeal by State, copy of the evidence of the father and brother of the deceased not produced, acquittal not interfered with. *Mangal Ram v State of MP*, [1999 Cr LJ 4342](#) (MP), suicidal death of married woman within seven years, there was harassment for four *tolas* of gold and the demand being not met she was beaten up and driven out. Offence under the section made out. *Paparambaka Rosamma v State of AP*, [1989 Cr LJ 4321](#) : [AIR 1999 SC 3455](#) , a mere statement in the dying declaration that she wanted to live

separately from her in-laws and that they did not like her was held to be not sufficient to sustain a charge under this section.

14. *Noorjahan v State*, (2008) 11 SCC 55 [LNIND 2008 SC 950] : AIR 2008 SC 2131 [LNIND 2008 SC 950] . *Ran Singh v State of Haryana*, (2008) 4 SCC 70 [LNIND 2008 SC 204] : AIR 2008 SC 1994 [LNIND 2008 SC 969] : 2008 Cr LJ 1941 , findings of the trial judge disapproved by the High Court on presumptive basis. The Supreme Court restored the order of the trial judge. There was no proof. *B Venkat Swamy v Vijaya Nehru*, (2008) 10 SCC 260 [LNIND 2008 SC 1682] , guilt not proved by circumstantial evidence, the deceased was found hanging in a room which was bolted from inside.
15. *Krishan Lal v UOI*, 1994 Cr LJ 2472 (P&H).
16. *Kans Raj v State of Punjab*, AIR 2000 SC 2324 [LNIND 2000 SC 735] : 2000 Cr LJ 2993 . See also *Ram Saran Varshney v State of UP*, 2016 Cr LJ 1251 : 2016 (3) SCJ 39 .
17. *Raj Rani v State (Delhi) Admn*, AIR 2000 SC 3559 : 2000 Cr LJ 4672 . See also *Satish Shetty v State of Karnataka*, 2016 Cr LJ 3147 : 2016 (6) SCJ 14 .
18. *Krishan Lal v UOI*, 1994 Cr LJ 3472 (P&H).
19. *Sushil Kumar Sharma v UOI*, 2005 Cr LJ 3439 : AIR 2005 SC 3100 [LNIND 2005 SC 1208] : (2005) 6 SCC 281 [LNIND 2005 SC 1208] . The court explained the distinction between sections 306 and 498-A, (cruelty and abetment of suicide) by saying that the difference is that of intention.
20. *Satish Kumar Batra v State of Haryana*, AIR 2009 SC 2180 [LNIND 2009 SC 754] : (2009) 12 SCC 191 .
21. *Sarojakshan v State of Maharashtra*, 1995 Cr LJ 340 (Bom).
22. At p 341. *State of Karnataka v HS Srinivasa*, 1996 Cr LJ 3103 (Kant) acquittal because of no proof. *Balkrishna Pandurang Moghe v State of Maharashtra*, 1992 Cr LJ 4496 (Bom), husband and his relatives treated as a class apart from other offenders with the object of dealing effectively with cases of cruelty by in-laws to married women. Such classification does not result in invidious discrimination violative of [Article 14 of the Constitution](#).
23. *State of Karnataka v Moorthy*, 2002 Cr LJ 1683 (Kant); *State of Maharashtra v Ashok Narayan*, 2000 Cr LJ 4993 : (2000) 9 SCC 257 [LNIND 2000 SC 413] (SC), a letter of the deceased wife was produced in evidence by her brother but it did not show any demand nor mentioned any cruelty. The oral testimony of the brother was not considered to be sufficient.
24. *State of AP v Kalidindi Sahadevudu*, 2012 Cr LJ 2302 (AP).
25. *Pawan Kumar v State of Haryana*, AIR 1998 SC 958 [LNIND 1998 SC 176] : 1998 Cr LJ 1144 (SC); *Mangal Ram v State of MP*, 1999 Cr LJ 4342 (MP), persistent demand for dowry, death due to burn injuries within seven years, conviction. Section 304B was not attracted because the "soon before" requirement was not satisfied.
26. *Ushaben v Kishorbhai Chunilal Talpada*, (2012) 6 SCC 353 [LNINDU 2012 SC 25] : 2012 Cr LJ 2234 .
27. *Pinakin Mahipatray Rawal v State of Gujarat*, 2013 (3) Mad LJ (CrI) 700 : 2013 AIR (SCW) 5219.
28. *Siddaling v State*, AIR 2018 SC 3829 [LNIND 2018 SC 355] .
29. *Laxman Ram Mane v State of Maharashtra*, 2010 (13) SCC 125 : (2011) 1 SCC (Cr) 782.
30. *Chami v State*, 2013 Cr LJ 3441 ; *Suman v Puran Chand*, 2013 Cr LJ 3703 (Raj). See also *State of HP v Pawan Kumar*, 2000 Cr LJ 4889 (HP).
31. *Kantilal Martaji Pandor v State of Gujarat*, 2013 Cr LJ 3866 (SC).
32. *Pashaura Singh v State of Punjab*, 2010 Cr LJ 875 : AIR 2010 SC 922 [LNIND 2009 SC 1988] .
33. *State of Punjab v Dal Jit Singh*, 1999 Cr LJ 2723 (P&H).

34. *Shivanand Mallappa Koti v State of Karnataka*, (2007) 13 SCC 68 [LNIND 2007 SC 778] : AIR 2007 SC 2314 [LNIND 2007 SC 778] . See also *M Sirinivaslu v State of AP*, (2007) 12 SCC 443 [LNIND 2007 SC 1047] : AIR 2007 SC 3146 [LNIND 2007 SC 1047] ; *Vipin Jaiswal v State*, AIR 2013 SC 1567 [LNIND 2013 SC 205] : (2013) 3 SCC 684 [LNIND 2013 SC 205] ; *Modinsab Kasimsab Kanchagar v State of Karnataka*, 2013 Cr LJ 2056 : AIR 2013 SC 1504 [LNIND 2013 SC 1276] : (2013) 4 SCC 551 [LNIND 2013 SC 1276] .
35. *State of Karnataka v Balappa*, 1999 Cr LJ 3064 (Kant).
36. *Bhaskar Ramappa Madar v State of Karnataka*, (2009) 11 SCC 690 [LNIND 2009 SC 723] : 2009 Cr LJ 2422 .
37. *Bharat Bhushan v State*, 2013 (4) Scale 524 [LNIND 2013 SC 199] .
38. *State of Karnataka v KS Manjunathchary*, 1999 Cr LJ 3949 (Kant), father-in-laws' conviction reduced from three to two years. Fine money was enhanced and directed to be paid to the father of the deceased.
39. *Sumangala L Hegde v Laxminarayana Anant Hegde*, 2003 Cr LJ 1418 (Kant). The court noted the ruling in *Ravindra Pyarelal Bidlan v State of Maharashtra*, 1993 Cr LJ 3019 (Bom) to the effect that a cruelty is not mere harassment or mere demand for property, etc. There must be a reasonable nexus between cruelty and suicide for proof of cruelty and also the ruling of the Allahabad High Court in *Vijay Kumar Sharma v State of UP*, (1991) 1 crimes 298 (All), wherein also a minor child was taken away by the husband and his relatives from the custody of the mother in order to coerce her to meet their dowry demand.
40. *Manoj Kumar v State of HP*, 2016 Cr LJ 5015 (MP).
41. *Nachhatar Singh v State of Punjab*, 2011 Cr LJ 2292 : (2011) 11 SCC 542 [LNINDORD 2011 SC 269] .
42. *Amar Singh v State of Rajasthan*, AIR 2010 SC 3391 [LNIND 2010 SC 701] : (2010) 3 SCC (Cr) 1130; *Rajesh Gupta v State*, 2011 Cr LJ 3506 (AP).
43. *Prem Dass v State of HP*, 1996 Cr LJ 951 (HP). *Ashok v State*, AIR 2000 SC 3444 [LNIND 2000 SC 597] : 2000 Cr LJ 2988 , evidence to the effect that the husband and mother-in-law were regularly beating her for not getting scooter, there were marks of injuries on her body. Conviction under the section. The brother-in-law was given the benefit of doubt because there was no evidence of his role. *State of Maharashtra v Ashok Narayan*, AIR 2000 SC 3568 [LNIND 2000 SC 413] : 2000 Cr LJ 4993 there was no assertion in her letters to her brother that the husband was making any demand or assaulted her or treated her with cruelty or torture. Conviction could not be maintained on the oral testimony of her brother. *State of Karnataka v Shivaraj*, 2000 Cr LJ 2741 (Kant) second wife, death of, presumption of validity of marriage unless the contrary is shown, allegations of torture and cruelty not made out.
44. *Ramesh Chand v State of UP*, 1992 Cr LJ 1444 (All); *Pyare Lal v State of Haryana*, AIR 1999 SC 1563 .
45. *Diwan Singh v State of Uttarakhand*, 2016 Cr LJ 1258 (Utr) : 2016 (93) ALLCC 861.
46. *Anoop Kumar v State of MP*, 1999 Cr LJ 2938 (MP).
47. *Lau v DPP*, (2000) 1 FLR 799 (QBD). *State of AP v Madhusudhan Rao*, (2008) 15 SCC 582 [LNIND 2008 SC 2124] ; *Hazarilal v State of MP*, (2009) 13 SCC 783 [LNIND 2007 SC 805] , harassment not proved.
48. *Sarla Prabhakar Waghmare v State of Maharashtra*, 1990 Cr LJ 407 (Bom). *Joytilal Chakraborty v Dipak Dutta*, (1995) 1 Cr LJ 930 (Cal) no complaint by the woman about torture during her life-time, other evidence was also not reliable, complaint rejected. *State of Haryana v Rajinder Singh*, 1996 Cr LJ 1875 (SC), offence not proved, acquittal proper.
49. *Tapan Pal v State of WB*, 1992 Cr LJ 1017 (Cal).

50. *Tasrem Singh v Amrit Kaur*, 1995 Cr LJ 3560 . Where the sufferings of the married woman who committed suicide within seven years were not due to dowry demands but due to incompatibility of temperament and attitudes, no conviction.
51. *U Subba Rao v State of Karnataka*, 2003 AIR—Kant HCR 1062 : 2003 Cr LJ (NOC) 120 (Kant).
52. *Annapurnabai v State of MP*, 1999 Cr LJ 2696 (MP); *Ramesh v State of TN*, 2005 Cr LJ 1732 : AIR 2005 SC 1989 [LNIND 2005 SC 222] : (2005) 3 SCC 507 [LNIND 2005 SC 222] , allegation that the husband's married sister stayed with her parents for a few days. The allegation against her was she directed the complainant wife to wash WC and also made imputations against her. Did not amount to harassment for dowry demand.
53. *Paparambika Rosamma v State of AP*, 1999 Cr LJ 4321 : AIR 1999 SC 3455 ; *Lawrence v State of Kerala*, 2002 Cr LJ 3455 (Ker); *Taruna v State of WB*, 2001 Cr LJ 4937 (SC); *State of HP v Kewal Kumar*, 2002 Cr LJ 3807 (HP).
54. *Lella Srinivasa Rao v State of AP*, (2004) 9 SCC 713 [LNIND 2004 SC 1273] : AIR 2004 SC 1720 [LNIND 2004 SC 1273] .
55. *Bhaskar Lal Sharma v Monica*, (2010) 1 SCC (Cr) 383 : (2009) 10 SCC 604 [LNIND 2009 SC 1432] .
56. *Ganpat Dnyanoba Garje v State of Maharashtra*, 2012 Cr LJ 1874 (Bom).
57. *Ramgopal v State of MP*, 2010 (13) SCC 540 [LNIND 2010 SC 690] : 2010 (7) Scale 711 [LNIND 2010 SC 690] .
58. *State v Dhruv Kumar Singh*, 2002 Cr LJ 1315 .
59. *Lalmani Mahto v State of Bihar*, 2003 Cr LJ (NOC) 1 (Jhar) : (2002) 3 JLJR 576 .
60. *Arun Garg v State of Punjab*, (2004) 8 SCC 251 [LNIND 2004 SC 1012] .
61. *Satya Narayan Tiwari v State of UP*, 2011 Cr LJ 445 : (2010) 13 SCC 689 [LNIND 2010 SC 188] A.
62. *Satish Kumar Batra v State of Haryana*, AIR 2009 SC 2180 [LNIND 2009 SC 754] : (2009) 12 SCC 191 .
63. *Heera Lal v State of Rajasthan*, 2017 (6) Scale 152 .
64. *Vijai Ratan Sharma v State of UP*, 1988 Cr LJ 1581 (All). To the same effect is the decision in *S Faisal Nabi v State of MP*, 2001 Cr LJ 1598 (MP), cruelty was committed at her in-laws' place and continued at her parents' home where she was forced to go, letters of dowry demand also received at the latter place. The Courts at the place of parental home had jurisdiction. *Mohd Haroom v State of Rajasthan*, 1999 Cr LJ 2532 (Raj), unlawful demands, held not sufficient in themselves to constitute cruelty or lead to suicide.
65. *Dukhi Ram v State of UP*, 1993 Cr LJ 2539 (All).
66. *Rajaram Venkatesh v State of AP*, 1993 Cr LJ 707 (AP).
67. *Suman Upadhyay v State of UP*, 1999 Cr LJ 4657 (All).
68. *Gulshan Kapoor v State of Rajasthan*, 2011 Cr LJ 4864 (Raj).
69. *Sunita Kumari Kashyap v State of Bihar*, AIR 2011 SC 1674 [LNIND 2011 SC 405] : 2011 Cr LJ 2667 .
70. *Sujata Mukherjee v Prashant Kumar Mukherjee*, AIR 1997 SC 2465 : 1997 Cr LJ 2985 .
71. *State of MP v Suresh Kaushal*, 2003 (11) SCC 126 : 2002 Cr LJ 217 (SC) reported in 2008 (11) SCC 103 [LNIND 2008 SC 821] : AIR 2008 SC 2666 [LNIND 2008 SC 821] .
72. *Vamgarala Yedukondala v State of AP*, 1988 Cr LJ 1538 (AP).
73. *Prasanna Kumar v Dhanalaxmi*, 1989 Cr LJ 1829 (Mad). *Amrish Kumar Agarwal v State of UP*, 2000 Cr LJ 1324 (All), offence committed before commencement of the new section, prosecution not justified.
74. *Vasanta Tulshiram Bhoyar v State of Maharashtra*, 1987 Cr LJ 901 (Bom).

75. *State of Rajasthan v Gopilal*, 1992 Cr LJ 273 . A similar approach was adopted by AP High Court in *Thathapadi Venkatalakshmi v State of AP*, 1991 Cr LJ 749 , the court pointing out that the wife cannot be permitted to withdraw the charge-sheet if it is filed by the police. *Gursharan Kaur v State of Rajasthan*, 1993 Cr LJ 2076 (Raj), the court ordered compromise to be recorded setting aside the Magistrate's order.
76. *D Jayalakshmi v State of MP*, 1993 Cr LJ 3162 (AP).
77. *Pyare Lal Gupta v State*, 2000 Cr LJ 1019 (Del).
78. *Manoj Kumar v State of Rajasthan*, 1999 Cr LJ 10 (Raj).
79. *Gopal v State of TN*, 1999 Cr LJ 3939 (Mad).
80. *BS Joshi v State of Haryana*, AIR 2003 SC 1386 [LNIND 2003 SC 335] : 2003 Cr LJ 2028 , the aggrieved wife settled the matter with her husband by going in for consent divorce and applied for quashing of her complaint. *Risal Singh v State of Punjab*, 2012 Cr LJ 2188 (SC) : 2012 AIR SCW 2249; *Jitendra v Babita*, (2013) 4 SCC 58 [LNIND 2013 SC 195] .
81. *RP Bidlan v State of Maharashtra*, 1993 Cr LJ 3019 (Bom).
82. *Balkrishna Pandurang Moghe v State of Maharashtra*, 1998 Cr LJ 4496 (Bom). The Court said that the section is not invalid on the ground of absence of nexus between the provision and the object sought to be achieved; *Rajendran v Commr of Police*, AIR 2009 SC 855 [LNIND 2008 SC 2339] : (2008) 17 SCC 501 [LNIND 2008 SC 2339] , evidence of torture leading to suicide.
83. *Suvetha v State*, (2009) 6 SCC 757 [LNIND 2009 SC 1156] : 2009 Cr LJ 2974 ; *Ranjana Gopalrao Thorat v State of Maharashtra*, 2008 Bom CR (Cr) 185 : (2007) (5) AIR Bom R 271; a person can become a relative only by blood or marriage and not otherwise. The word relative has been defined in the Chambers Dictionary 'person who is related by blood or marriage'. A second wife cannot assume a character as wife if there is no marriage in the eye of law. Since she is not a relative, she does not fall within the scope of section 498A of IPC, 1860 at all. She certainly deserves to be discharged as far as offence under section 498A of IPC, 1860 is concerned; *John Indiculla v State*, 2005 Cr LJ 2925 (Ker) - the second wife is a relative of the husband.
84. *Syed Hyder Hussain v State of AP*, (2002) Cr LJ 3602 (AP).
85. *Reema Agarwal v Anupam*, (2004) 3 SCC 199 [LNIND 2004 SC 1499] : AIR 2004 SC 1418 [LNIND 2004 SC 1499] : 2004 Cr LJ 892 ; *A Subhash Babu v State of AP*, AIR 2011 SC 3031 [LNIND 2011 SC 679] : 2011 (7) SCC 616 [LNIND 2011 SC 679] .
86. *Vasant Bhagwat Patil v State of Maharashtra*, 2012 Cr LJ 65 (Bom).
87. *Chandrawati v State*, 1996 Cr LJ 975 (Del).
88. *Undavalli Narayana Rao v State of AP*, (2009) 14 SCC 588 [LNIND 2009 SC 1515] .
89. *Inderpal v State of MP*, (2001) 10 SCC 736 : 2002 Cr LJ 926 (SC); *Gananath Pattnaik v State of Orissa*, (2002) 2 SCC 619 [LNIND 2002 SC 100] .
90. *State of Karnataka v Siddaraju*, 2000 Cr LJ 4220 (Kant); *Kishangiri Mangalgiri Goswami v State of Gujarat*, (2009) 4 SCC 52 [LNIND 2009 SC 193] : AIR 2009 SC 1808 [LNIND 2009 SC 193] : 2009 Cr LJ 1720 : (2009) 2 GLR 1074 , imprisonment for 10 years not interfered with, that under Dowry Prohibition Act, 1961, section 3, reduced from five to three years. *Balwant Singh v State of HP*, (2008) 15 SCC 497 [LNIND 2008 SC 1942] : 2008 Cr LJ 4683 , sentence for one year maintained, that of aged parents-in-law reduced to the period already undergone. *Shivcharan Lal Verma v State of MP*, (2007) 15 SCC 369 , second marriage during life-time of the first wife, second wife tortured by both, section 498-A not applicable, but because she committed suicide because of the torture, conviction under section 306 maintained, but sentence of seven years reduced to five years. *Milind Bhagwanrao Godse v State of Maharashtra*, (2009) 2 SCC (Cr) 182 : AIR 2009 AC 1828 : (2009) 3 SCC 699 [LNIND 2009 SC 338] : 2009 Cr LJ 1736 , torture leading to suicide, conviction under sections 498-A, 306, 109 read with section 34. *Kailash v State of MP*,

(2006) 12 SCC 667 [LNIND 2006 SC 803] : AIR 2007 SC 107 [LNIND 2006 SC 803] , the accused had already under gone eight years of imprisonment, the court reduced the sentence to eight years. *Anand Mohan Sen v State of WB*, (2007) 10 SCC 774 [LNIND 2007 SC 688] : 2007 Cr LJ 2770 , death by itself may not lead to an inference that cruelty was there, but in this case there were specific allegations which were proved by prosecution witnesses, ingredients were satisfied, no interference in the order of conviction by the High Court.

91. *Malyala Vishwanatha Rao v State of AP*, 2003 Cr LJ (NOC) 11 (AP) : (2002) 1 ALT (Cr) 499. *Konidela Madhusudhan v State of AP*, 2003 Cr LJ (NOC) 172 (AP) : (2003) 1 Andh LD (Cr) 823, harassment was not complained of immediately. The sentence of imprisonment was restricted to the period already undergone. *Chandra Kala Devi v State of Bihar*, 2003 Cr LJ 3146 (Pat), evidence of witnesses showed that the in-laws of the victim demanded motorcycle from parents and that she had to face hostile atmosphere for that reason. There was also an attempt to set her on fire. Finding of guilt and sentence imposed were confirmed, but looking at their age and the fact that they remained in custody for 52 days, their sentence was reduced to the period already undergone.

92. *State of Maharashtra v Vasant Shankar Mhasane*, 1993 Cr LJ 1134 (Bom). *Raghumunda Satya Narayana v State of AP*, AIR 2000 SC 3420 : 2000 Cr LJ 2779 the accused-husband was convicted under the section and sentenced to two years' imprisonment. The aggrieved wife filed affidavit saying that they had come to terms and that their peace would elude them if the husband had to undergo the whole sentence. The sentence was reduced to the period already undergone.

93. *Siddaling v State*, AIR 2018 SC 3829 [LNIND 2018 SC 355] .

94. *BT Jayaram v State of Karnataka*, (2008) 14 SCC 530 : AIR 2006 SC 1799 . *Satish Kumar Batra v State of Haryana*, (2009) 12 SCC 491 [LNIND 2009 SC 754] : AIR 2009 SC 2180 [LNIND 2009 SC 754] : 2009 Cr LJ 2447 , sentence reduced to the period already undergone 13 months.

95. *Rajesh Sharma v State of UP*, AIR 2017 SC 3869 [LNIND 2017 SC 351] .

96. *Onkar Nath Mishra v State (NCT) of Delhi*, (2008) 2 SCC 561 [LNIND 2007 SC 1511] : 2008 Cr LJ 1391 . See also *Social Action Forum for Manav Adhikar v Union of India Ministry of Law and Justice*, AIR 2018 SC 4273 .

97. *Onkar Nath Mishra v State (NCT) of Delhi*, (2008) 2 SCC 561 [LNIND 2007 SC 1511] : 2008 Cr LJ 1391 , there was not even whisper of wilful conduct of harassment.

98. *Sunil Kumar Sambhudayal Gupta v State of Maharashtra*, 2011 Cr LJ 705 : (2010) 13 SCC 657 [LNIND 2010 SC 1088] .

99. *KRJ Sarma v Surya Rao*, 2013 Cr LJ 2189 (SC); *State of HP v Manju Rani*, 2013 Cr LJ 101 (HP); *Anil Kumar Gupta v State of UP*, 2011 Cr LJ 2131 : (2011) 11 SCC 24 [LNIND 2011 SC 275] ; *Atikul Islam v State of Tripura*, 2013 Cr LJ 1374 (Gau) — allegation of cruelty is not proved beyond reasonable doubt, Accused was acquitted.

100. *Maniklal Jain v State of MP*, 2012 Cr LJ 613 (SC) : 2011 AIR SCW 6471.

101. *Anisetti Sivaprasada Rao v State of AP*, 1994 Cr LJ 1760 (AP). *Mangilal v State of Rajasthan*, AIR 2001 SC 2937 [LNIND 2001 SC 2385] , the accused administered poison to his wife, acquittal set aside; *Girdhar Shankar Tawade v State of Maharashtra*, AIR 2002 SC 2078 [LNIND 2002 SC 325] : 2002 Cr LJ 2814 (SC), charges under sections 306 and 498A are independent of each other. Acquittal under section 306 does not necessarily entail acquittal under section 498A. But there was no evidence to bring home the charge even under section 498A.

102. *Savalram v State of Maharashtra*, 2003 Cr LJ 2831 (Bom).

103. *Hussan Lal v State of Punjab*, 2002 Cr LJ 2436 (P&H).

104. *Vijaya v Laxmanan*, 1999 Cr LJ 5012 : (1998) 8 SCC 415 .

105. *Arun Vyas v Anita Vyas*, AIR 1999 SC 2071 [LNIND 1999 SC 1377] : 1999 Cr LJ 3479 .

106. *Preeti Gupta v State of Jharkhand*, (2010) 7 SCC 667 [LNIND 2010 SC 752] : AIR 2010 SC 3363 [LNIND 2010 SC 752] .

107. Law Commission of India—243rd Report, Para-9.1; Available at : <http://lawcommissionofindia.nic.in/reports/report243.pdf> (last accessed in July 2019).

108. Law Commission of India- 243rd Report- Para-9.1; Available at : <http://lawcommissionofindia.nic.in/reports/report243.pdf> (last accessed in July 2019).

THE INDIAN PENAL CODE

CHAPTER XXI OF DEFAMATION

[s 499] Defamation.

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

ILLUSTRATIONS

- (a) A says—"Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.
- (b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation unless it falls within one of the exceptions.
- (c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

Imputation of truth which public good requires to be made or published.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public conduct of public servants.

Second Exception.—It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public

functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

ILLUSTRATION

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending a such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharges of the duties of which the public is interested.

Publication of reports of proceedings of Courts.

Fourth Exception.—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Merits of a case decided in Court or conduct of witnesses and others concerned.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

ILLUSTRATIONS

- (a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest". A is within this exception if he says this in good faith, in as much as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.
- (b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, in as much as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Merits of public performance.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.