

A REPORT ON CASES FILED UNDER SECTION 498A, CLOSED AS FALSE IN TWO DISTRICTS AND TWO CITIES OF RAJASTHAN

Resource Centre for Interventions on Violence Against Women

January 2016

Introduction

As a response to increasing violence against women (VAW) in India (sexual assault, physical and mental abuse, dowry killings), the third phase of the Women's Movement lobbied for more comprehensive and stringent laws to address VAW in the early 1980s¹. As a result of intense campaigning, Section 498A of the Indian Penal Code was introduced, which recognised 'cruelty' to a married woman by her marital family as a crime.

Under Section 498A, after the Police receive a case filed under this section directly at the police station or from the Court, they undertake investigation and depending on the findings, either file a charge sheet in the Court or then close the case stating that the case has been filed as a result of misunderstanding or a false case. There is little to no research on the circumstances of these 'closed' cases, even after three decades of the law. In popular culture the understanding has grown that the high number of 498A cases closed as 'false' is indicative of a flawed law, or of women misusing or taking advantage of the law. This research report is located within the universe of these 'false' cases, in order to understand a woman's journey through seeking justice under section 498A, and what circumstances a 'false' case is comprised of.

Objectives

- Describe the trend in reporting of cases registered under 498A vis-à-vis past year;
- Understand the reasons behind the increasing percentage of cases which do not get charge sheeted;
- Find possible reasons of closing of the cases after Police investigation;
- Understand possible correlates of cases that are not charge sheeted, but are closed after Police investigation;
- Recommend suggestions for better implementation of the law.

Methodology

Two datasets of both primary and secondary data, comprising four districts in Rajasthan (I. Shri Ganganagar and Bharatpur; II. Jaipur and Jodhpur City [East]) were selected for this study. The secondary data comprises police records of cases filed under section 498A which were labeled as closed, and the primary data comprises interviews with women who have registered these complaints, family members of these complainants, women's rights activists, lawyers, and community leaders. Over the course of this study, police records for a total of 337 closed cases were analysed, and a total of 63 women complainants were interviewed along with 42 other stakeholders.

Findings

Profile of the woman

Age: A majority of women were between 18-34 years of age (92.3% in Dataset 1 and 91.66% in Dataset II).

Religion and caste: A majority of women were Hindus (82.1% in Dataset 1) followed by Sikhs, and Muslims. In Dataset I, 35.9% of women were from the General category, 33.3% were OBC and 30.8% were SCs. In Dataset II, more women were from the General (37.3%) and OBC (33.7%) categories than from Scheduled Castes and Scheduled Tribes (8.3%).

Socio-economic status: The primary data shows that more than three-fourth of the complaints

Cruelty under Section 498A is defined as:

- 1. Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or*
- 2. Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her meet such demand.*

(76.9%) were from lower socio-economic strata, while the rest (23.1%) were from lower-middle socio-economic strata (Dataset I). Primary data shows that most complainants were engaged in non-remunerative work (74.4% in Dataset I 83.3% in Dataset II).

Education: This data set shows that cases registered by non literate women in Bharatpur are 42.8% and 11.1% in Shri Ganganagar. In Jodhpur and Jaipur, many more women filing cases were educated up to graduation (29.2%) and above (8.3%).

Marital status and place of residence: 64.10% of the women interviewed stated that they continue to live with their natal families even after filing of complaint under 498A and of it closing (Dataset I). As per the women's statement in the Police records, at the time of filing the Final Report, 96.98% of the women were married.

However, the primary data shows that after a year of filing a complaint under section 498A and of it being closed, the marital status of the Complainant has changed.

History of Violence

In Dataset I, according to the women's statements recorded in the secondary data, 94% women have named their husbands as the perpetrator of violence, while 78% have also identified their in-laws as the perpetrators. In women's statements to the police 94.7% women said that they faced verbal violence, 86.8% were subjected to financial violence and 81.6% are survivors of physical violence. Thus, most of the women are subjected to verbal violence.

However, for these cases, there is no mention of violence in the Police report.

Previous intervention

In Dataset I, the women's statements in the Police records show that in 61.6% cases, prior to approaching the Police, efforts at mediation had taken place. Out of which in 59.9% cases the natal family had intervened, but in almost all cases (59.5%) their intervention was unsuccessful.

Filing the case under 498A

Most women, in the absence of other options, harness section 498A as a tool through which they can secure negotiation for non-violent reconciliation. 94.87% women in Dataset I reported that the intent of filing the case was to create pressure for non-violent reconciliation.

Since arrest is seen as crucial and as strengthening leverage, women were advised to file 498A instead of PWDVA because it ensures immediate arrest. In Dataset I, 84.6% women reported having no knowledge of PWDVA, reflecting the fact that they saw 498A as their primary option for ending violence.

Despite the existence of specialized Mahila Thanas, most women have chosen to enter the Criminal Justice System (CJS) through the courts (69% of women from dataset I and 59% of women from dataset II). Most women therefore entered the CJS through lawyers and are pressured by their family and lawyers to over-emphasise dowry demands with the understanding that this would make their case stronger, and some were not even aware of the content of the FIR or application. This approach overshadows their experience of other forms of violence.

Creating space for negotiation

The accusations of dowry might not get validated through the investigation and the woman's experience of violence might not fit within the legal parameters of 498A. Therefore, a space for negotiation for the woman and other stakeholders, under the aegis of the police, is created.

- The woman enters a negotiation with the hope that the threat of police authority will serve to prevent violence, and agrees for the case to be closed. 66.7% of women in Dataset II (primary data) reported closing the case due to

