

**Dara Lakshmi Narayana & others v. state of
Telangana & Another**

- ❖ **TOPIC :** S.498 A IPC often Used Against Husband & His Family To meet wife's Unreasonable Demands, Growing Tendency of Misuse : SC
- ❖ **BENCH :** Justices B.V. Nagarathna and N. Kotiswar Singh
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding the tendency to implicate all the members of the husband's family when domestic disputes arise out of matrimonial discord.
- ❖ **OBSERVATIONS**
 - While quashing a Section 498-A IPC (cruelty) case against a husband and in-laws of the wife, the Supreme Court again cautioned about the tendency to implicate all the members of the husband's family when domestic disputes arise out of matrimonial discord.
 - Also, the Court criticized the growing tendency to misuse provisions like Section 498-A IPC as a tool for unleashing personal vendetta against the husband and his family.
 - Last month also, the Court expressed a word of caution to the Courts to ensure that distant relatives of a husband are not unnecessarily implicated in criminal cases filed at the instance of a wife alleging domestic cruelty.
 - The bench comprising Justices B.V. Nagarathna and N. Kotiswar Singh noted that the provision of Section 498-A IPC has become the legal weapon for the wives/ her relatives to settle scores with the husband/ his family without understanding the true purpose of the provision brought to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State.
 - “The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead

- to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family.
- Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.”, the judgment authored by Justice Nagarathna said.
 - The Court heard the criminal appeal filed by the husband and in-laws against the Telangana High Court's decision refusing to quash the domestic cruelty case registered by the wife against them.
 - The wife had registered a domestic cruelty case against the appellants after the husband filed a petition seeking the dissolution of the marriage.
 - Deprecating such a measure, the Court said that the intention of the provision was to protect the wives who were subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry, however, the complainant-wife had misused the provision as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband.
 - “We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding.
 - That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter.
 - In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.”, the court observed.
 - The Court held that the High Court committed a grave error in not quashing the FIR against the appellants, thus the pending case against the appellants was quashed.
 - Accordingly, the appeal was allowed.

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Tej Bhan (d) through Lr. & Ors. v. Ram Kishan (d) through Lrs. & Ors.

- ❖ **TOPIC:** Hindu Succession Act | Supreme Court Refers To Larger Bench Conflicting Opinions on Female Hindu's Rights Under S.14
- ❖ **BENCH:** Justice PS Narasimha and Justice Sandeep Mehta
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding the inconsistencies and conflicting interpretations surrounding the interplay between Sections 14(1) and 14(2) of the Hindu Succession Act, 1956
- ❖ **OBSERVATIONS**
 - The Supreme Court on the inconsistencies and conflicting interpretations surrounding the interplay between Sections 14(1) and 14(2) of the Hindu Succession Act, 1956 ("HSA") which deals with the rights of Hindu females in property inherited or possessed by them.
 - The bench comprising Justice PS Narasimha and Justice Sandeep Mehta dealt with the inconsistencies occurred in the judicial precedents where one line of precedents advances the cause of the female Hindu, recognizing her absolute right to ownership over the property received by her in recognition of her pre-existing right in the property under Section 14(1) of the HSA, and on the contrary, another line of precedents, Basing its reliance on Section 14(2) of the HSA, do not recognizes her absolute ownership over the property received in recognition of her pre-existing right unless the property received by her was before or at the time of the enactment of HSA.
 - One, Kanwar Bhan executed a Will in his Wife's favour. After her husband's death, the Wife transferred the suit property received via Will to the Appellants (purchasers) by way of a registered sale deed.
 - Thereafter, the legal heirs of Kanwar's Wife challenged the transaction on the ground that she didn't hold absolute ownership of the suit property under Section 14(1) of HSA but held only a restrictive right by an operation of Section 14(2) of HSA.
 - The Trial Court dismissed the suit and re-enforced the principle laid down in V. Tulasamma's case. The First Appellate Court upheld the trial court's decision.

- However, in the second appeal, the High Court overturned the concurring findings of the trial court and First Appellate Court. According to the High Court, the correct principles were laid down in the decision of Sadhu Singh's case.
- Following this, an appeal was preferred before the Supreme Court by the Appellants-purchasers.

Lt. Col. Suprita Chandel v. Union Of India And Ors

- ❖ **TOPIC :** Individuals Need Not File Separate Cases For Relief Granted To Others In Similar Cases Against Govt. Supreme court
- ❖ **BENCH :** Justices BR Gavai and KV Viswanathan
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding the grant of a permanent commission.
- ❖ **OBSERVATIONS**
 - While granting relief to a female army officer by directing the grant of a permanent commission even though she had not pursued litigation, the Supreme Court reiterated that individuals are not required to separately litigate for the same relief that was obtained by other similarly situated individuals against the action of the government department.
 - The reliefs granted to similarly situated individuals would be automatically extended to individuals who have not litigated their cases, the court said.
 - "It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court.", the bench comprising Justices BR Gavai and KV Viswanathan said.
 - "No doubt, in exceptional cases where the court has expressly prohibited the extension of the benefit to those who have not approached the court till then or in cases where a grievance in personam is redressed, the matter may acquire a different dimension, and the department may be justified in denying the relief to an individual who claims the extension of the benefit of the said judgment," the Court added.
 - The appellant, a short-service commission officer in the Army Dental Corps in 2008, claimed parity with other similarly situated officers who were granted a permanent commission and had three chances to secure the commissioning. However,

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following an amendment in 2013 to the original policy, the appellant was denied the third opportunity for permanent commission, which other officers similarly situated had been granted.

- The Armed Forces Tribunal (AFT) granted relief to other applicants by allowing them a one-time age relaxation. However, the appellant was denied benefit as she was not a party to the original case due to personal difficulties.
- Setting aside the AFT's Order, the judgment authored by Justice Viswanathan observed that it was not necessary for the appellant to separately litigate her case when other similarly situated officers were granted relief by the AFT.
- The Court said that the benefit of the AFT's decision granting permanent commission to other similarly situated officers should have also flowed to the Appellant, without compelling her to pursue her case separately on the same issue.
- Accordingly, the appeal was allowed, and the same benefits extended to other similarly situated officers were also extended to the appellant.

Sarla Devi Acharya v. The District and Sessions Judge & Ors. and other connected petitions

- ❖ **TOPIC:** Daughter who Become Widowed/ Divorced After Death of Govt Employee Parent Falls Outside "Family" Under Pension Rules : Rajasthan HC
- ❖ **BENCH :** Justice Dinesh Mehta
- ❖ **FORUM:** Rajasthan High Court
- ❖ **MAIN ISSUE**
 - Regarding writ petitions filed by daughters claiming family pension pursuant to their respective parents' death who were government employees, on the basis of them attaining status of a widow or a divorcee, subsequent to their parents' demise.
- ❖ **OBSERVATION**
 - Rajasthan High Court rejected a bunch of writ petitions filed by daughters claiming family pension pursuant to their respective parents' death who were government employees, on the basis of them attaining status of a widow or a divorcee, subsequent to their parents' demise.
 - The bench of Justice Dinesh Mehta ruled that the relevant date for determining family's right to receive family pension was the date of retirement or the date of death of the government servant, and accordingly, for a daughter to be eligible for father's pension, she must have a status of a widow or a divorcee on such a date. Her status subsequent

to the father's death would not render her the right to claim family pension. "since the Government servant had passed away on 20.09.2017 and on such fateful day, the petitioner was having a surviving matrimony and as she was obviously not a widowed daughter, she cannot be brought within the realm of definition of "family" defined under the Rule 66 of the Rules of 1996 by any stretch of statutory interpretation."

- The Court was hearing a bunch of writ petitions in this regard in which the case of Sarla Devi Acharya ("petitioner") was taken as the lead case.
- The Petitioner's father, who was a government employee, retired in 1982 and used to get a family pension under the Rajasthan Civil Services (Pension) Rules, 1996 ("the Rules") till he passed away in 2017.
- At that time, the petitioner was married to her husband, however, her husband also passed away in 2023.
- After her husband's death, the petitioner filed an application claiming family pension under Rules 66 and 67 of the Rules, which was rejected. Against this decision, the writ petition was moved before the Court.
- It was the case of the petitioner that Rules 66 and 67 included a widowed daughter which entitled her to receive the family pension. Furthermore, it was also submitted that a clarification dated January 16, 2023, ("the Clarification") was also issued by the Pension and Pensioners Welfare Department which clarified that even if the daughter became a widow after the government employee's death, she was entitled to the family pension.
- On the contrary, the counsel for the respondents argued that since petitioner's mother had already passed away earlier, the family pension stopped immediately on the death of the father in 2017, and the petitioner could not claim her dependency on father and resulting revival of the pension because of subsequent death of her husband since she was married on the day of her father's death.
- Furthermore, the counsel also submitted that the Clarification was contrary to the scheme of the Rules and therefore the latter would prevail.
- It was also pointed out that now, the Finance Department had also clarified that the daughter of a government employee who became a widow or divorcee after the employee's death could not claim a family pension.

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- After hearing contentions from both sides, the Court framed the question to be answered as: “Whether a married daughter whose matrimonial ties are severed due to death of her husband or dissolution of marriage, that too on a date posterior to the death of the Government servant is entitled to pension under the Rules of 1996 or not?”
- The Court opined that the relevant date to be considered for ascertaining a family's right to family pension was the date of employee's retirement or death. It was held that in the present case the relevant date was the one in 2017 and if on that date, the employee had any widowed/ divorced daughter(s), she would have been entitled for the family pension.
- However, the petitioner's husband was alive in 2017 and passed away only in 2023 which brought her outside “family” as defined under the Rules. “For a daughter to be eligible to earn pension under the Rules of 1996, she must have a status of widow or a divorcee’ – her status subsequent to the death of the Government servant cannot clothe her with a right to claim family pension under the subject Rules.”
- Furthermore, the Court also rejected the Clarification relied upon by the petitioner, by making a reference to a division bench case of the Court, viz., Union of India & Ors. Vs. Smt. Hemlata Sharma & Anr. in which it was ruled that, “By administrative circulars, a new class or category which otherwise was not included for the purposes of grant of family pension, could not be included as that would amount to supplanting the rules... None of the provisions contained in Rule 75 of the Rules of 1993 indicate that the rule ever sought to include a divorced/widowed daughter, who was otherwise leading a married life on the date of death of her father, the retired employee or even on the date of death of her widowed mother, who was getting family pension.”
- In this light, the Court held that since the Clarification issued was completely contrary to the scheme of the Rules, it could not be given any credence.
- Accordingly, the writ petitions were dismissed.

Ismail @Malo Husain Manjothi v. State of Gujarat

- ❖ **TOPIC:** Gujarat HC Declines Bail To Husband Booked For Wife's MURDER After Noting That He Tried To Mislead The Probe
- ❖ **BENCH :** Justice A.Y. Kogje
- ❖ **FORUM:** Gujarat High Court
- ❖ **MAIN ISSUE**
 - Regarding a man's bail plea who is accused of his wife's murder
- ❖ **OBSERVATIONS**
 - The Gujarat High Court recently rejected a man's bail plea who is accused of his wife's murder after noting that he had attempted to mislead the probe by first filing a missing person complaint and a habeas corpus petition before the court despite identifying the place from where the remains of his deceased wife's body were dug out.
 - Justice A.Y. Kogje in his November 29 order observed:
 - The relevant consideration for this Court not to exercise discretion in favour of the applicant additionally is active attempt made by the applicant to mislead the investigation by filing initially complaint for missing person and thereafter also filing a petition for habeas corpus before this Court despite the fact that remains of the dead body were dug out from the place which the applicant himself had identified.
 - The court also observed that the man's role was "vital in the commission of offence like murder of his wife", which was different from the role of the co-accused who were granted bail by the Supreme Court in July.
 - It said that the man's role cannot be equated with the other accused persons, who have been enlarged on bail and so the "principle of parity will not be applicable" to the man's case.
 - The man had moved the High Court seeking bail in connection with an FIR registered under IPC Sections 302 (Murder), 201 (destruction of evidence or giving false information to shield an offender from punishment), 120(B) (criminal conspiracy), 34 (acts done by several persons in furtherance of common intention) and 177 (furnishing false information) and under Section 135 of the Gujarat Police Act (Penalizes contraventions of orders issued by authorities under the Act) .
 - The Advocate for the applicant submitted that he is 41 years old and in jail since March, 2019. He further submitted that the alleged incident occurred

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in June, 2018 and FIR was registered on March, 2019, after 9 months. He then contended that the entire case is based on circumstantial evidence and prima facie, there is lack of concrete material in the chargesheet to establish the chain of circumstances against the applicant and out of 81 witnesses, 15 are yet to be examined and hence, trial is likely to consume more time.

- The counsel then argued on the grounds of parity that the co-accused persons have been enlarged on regular bail by this Court and the Apex Courts, therefore, the applicant deserves consideration.
- The prosecution's counsel objected to the bail application contending that the gravity of the murder is brutal against the wife. He submitted that the applicant with the assistance of other co-accused had successfully misled the investigation agency and the offence couldn't be detected for a year.
- It was contended that the accused persons claimed to be unaware of the whereabouts of the deceased for which a missing complaint and a writ of Habeas Corpus was filed to misdirect the investigation. He then contended that forensic evidence like bloodstains matches with the stains found in the car used to commit the crime. He then added that the trial is ongoing and witnesses are to be examined hence, the applicant should not be granted bail at this stage.
- The court noted that the allegation against the accused persons is that the deceased and the present applicant had quarrels earlier, as the deceased had got an offence registered against the applicant. This was due to the fact that the accused husband had married another woman and the deceased did not like that.
- It was alleged that the present applicant, along with other co-accused, hatched conspiracy from June 1, 2018 to June 9, 2018 to murder the deceased.
- It was alleged that the applicant picked up his wife from her house and at a secluded place the present applicant along with the co-accused persons inflicted five to six blows, consecutively, to the deceased on her neck and belly and caused her death.
- It was then noted by the Court that they took the dead body to an open plot, owned by one of the co-accused persons who had already dug a pit. Later, with the help of other co-accused persons they buried the body.
- It then said, "The role of the applicant is therefore, coming out very clear from the charge-sheet papers. The Court has taken into consideration certain statements of the witnesses, particularly the

witnesses who have directly connected the applicant with the entire offence of murder has taken place in the car...This Court has also independently considered the role attributed to the co-accused, who are enlarged on regular bail...

From the statement of the independent witnesses, it is coming out that it is the applicant, who participated in the offence with other co-accused from the beginning, i.e. to say from the stage of conspiracy and execution and thereafter, identifying the place for burying the deceased and after sometime changing the location of the dead body and burying it somewhere else. The strongest motive is against the present applicant whereas the role of other co-accused is coming out only on the basis of the statement of the present applicant".

- The Court then observed that the trial is almost at its last stage and only 5 witnesses are to be examined and "therefore, not be prudent to enlarge the applicant on bail".
- It thereafter dismissed the bail plea.

Halkae Ahirwar vs. State Of U.P. And 3 Others

- ❖ **TOPIC :** 'Serious Offence, Victim An Innocent 14 – Year Old Girl': Allahabad HC Denies Bail To Gang – Rape Accused
- ❖ **BENCH :** Justice Shekhar Kumar Yadav
- ❖ **FORUM:** Allahabad High Court
- ❖ **MAIN ISSUE**
 - Regarding accused of committing gang rape against a 14-year-old girl in April this year and making viral a video of the entire incident.
- ❖ **OBSERVATIONS**
 - The Allahabad High Court grants bail to one Halkae Ahirwar, who has been accused of committing gang rape against a 14-year-old girl in April this year and making viral a video of the entire incident.
 - A bench of Justice Shekhar Kumar Yadav rejected his bail plea, emphasizing that the victim is an 'innocent' 14-year-old girl and that the alleged offence committed by the applicant is of a very serious and heinous nature towards the society.
 - The accused, booked under Sections 376DA, 506 IPC, Section 5g/6 POCSO Act and Section 67B IT Act, along with three others, allegedly forced the victim to remove her cloth; they raped her and made a video of the crime and later made it viral.
 - Seeking bail in the case, the applicant-accused moved the HC, wherein his counsel argued that his

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client was innocent and had been falsely implicated in the case.

- His counsel also contended that the FIR in question had been lodged with a delay of 22 days, for which the prosecution had given no proper explanation.
- It was also argued that the victim's statement under Section 164 and the FIR was not uniform. The applicant had no connection to the matter in question, and thus, he should be released on bail.
- On the other hand, counsel present on behalf of the High Court Legal Service Committee stated that the applicant, along with other co-accused, had been accused of raping the 14-year-old victim and making a video of the gang-rape viral. It was also submitted that they even threatened to kill her.

- Against the backdrop of these submissions, the Court took into account the allegations against the accused and the submission that a video CD of the alleged gang rape incident, recorded by the accused, had been included in the case diary by the investigator.
- The court also factored in that the case diary mentions that the statements of the victim under Sections 161 and 164 of the CrPC, the statements of an independent witness, and the accused Sevaram's statement from his mobile phone have been used as evidence and based on the evidence collected, including the viral video, the case had been filed under Section 67 of the IT Act.
- Given this, noting that the victim is an innocent girl of 14 years, the Court denied bail to the accused. Before parting with the order, the Single Judge directed the trial court to dispose of the case in question within one year.



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