



## CASE COMMENT ON RAJESH SHARMA & ORS. VS STATE OF U.P. & ANR

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### INTRODUCTION

The Supreme Court of India, in the case of Rajesh Sharma & Ors. vs. State of U.P. & Anr., addressed the important issues related to the misuse of Section 498A of the Indian Penal Code (IPC). Section 498A of the Indian penal code was introduced in 1983 to protect women from cruelty in marriages, particularly related to dowry demands, by their husband or in-laws. It made cruelty a punishable offence that is cognizable, non-compoundable, and non bailable. However, over the time, it was observed that it was often misused, leading to innocent family members being wrongly accused. This led to wrongful arrest and unnecessary legal dispute. This case not only highlighted the issue but also provided protection for women’s rights, preventing false accusations and wrongful punishment and arrest of innocent people. The Supreme Court issued guidelines by framing rules to avoid unjust arrests and ensure fair treatment for all. These guidelines would help to stop the misuse of law and will ensure that genuine cases are treated properly.

**Case Name-** Rajesh Sharma & Ors. vs State of U.P. & Anr

**Court Bench-** Justice Adarsh Goel , Justice Uday Umesh Lalit

**Citation-** Criminal Appeal No. 1265 of 2017, (Arising out of Special Leave Petition (Crl.) No. 2013 of 2017)

**Date of Judgment** – 27 July, 2017

**Parties-**

**Petitioner-** Rajesh Sharma

**Respondent** – State of Uttar Pradesh & Anr

**Important Provisions**<sup>55</sup> –

Section 498A of The Indian Penal Code (IPC): Pertains to cruelty by husband or his relatives.

Section 323 of The Indian Penal Code (IPC): Pertains to punishment for voluntarily causing hurt.

Section 482 of The Criminal Procedure Code (CrPC): Pertains to the inherent powers of the High Court.

The Dowry Prohibition Act, 1961: The Act prohibits the giving and taking of dowry.

**Facts of the Case**<sup>56</sup>

This case revolves around a complaint filed by the respondent (Wife of Rajesh Sharma) against her husband and his family on 2<sup>nd</sup> December 2013. The couple married on 28<sup>th</sup> November 2012. The wife claimed that after providing the dowry from her father, her husband and the relatives

<sup>55</sup> The Indian Penal Code ,1860

<sup>56</sup> Rajesh Sharma and Ors V State of U.P. and Ors (Criminal appeal no. 1265 of 2017)

were not satisfied and demanded an extra dowry of Rs. 3,00,000 and a car that her family could not provide.

On 10<sup>th</sup> November 2013, husband dropped her off at her matrimonial home while she was pregnant and suffered pain during the process, which ultimately led her to terminate the pregnancy. She alleged that her dowry was kept by her in-laws. As a result, Rajesh Sharma was charged for dowry harassment and causing hurt.

The trial court summoned the Petitioner (Rajesh Sharma) under Section 498A of IPC for dowry harassment and Section 323 of IPC for causing hurt, but the Rajesh Sharma family members were not summoned. After that, the wife filed a revision petition asking the trial court to review its decision and include all the family members of Rajesh Sharma. The Additional Sessions Judge directed the trial court to review its decision. The trial court summoned all the family members. The petitioner appealed to the High Court under Section 482 of CrPC<sup>57</sup> but the High Court rejected the petition of the petitioner and upheld the trial court's order. Rajesh Sharma appealed to the Supreme Court, challenging the High Court's decision.

### Issues Involved

1. Is Section 498A being misused to implicate innocent family members without sufficient evidence?
2. Should the court establish guidelines for using Section 498A to prevent it from being misused and protect innocent people?
3. Should a complaint under Section 498A be filed before the first trial?

### Judgement<sup>58</sup>

The Supreme Court agreed that dowry harassment is a serious issue but said arrests based only on complaints can be harmful, even if the charges are false later. The Court stressed

that Section 498A should be used to protect women, not to punish people wrongly.

Misuse of 489A – The Court recognized that although Section 498A which was introduced to safeguard women from dowry and cruelty had been used as a tool to misuse. It was further observed that these laws were sometimes used to make false allegations against the husband and his family which resulted in unwarranted harassment and wrongful arrests of innocent people. This misapprehension often resulted in targeting the family members such as parents, grandparents, and children of the husband based on wrongful claims, with no substantial proof of harm and injury.

The Court also noted that false complaints and wrongful arrests under Section 498A were increasing, as shown by data from the National Crime Records Bureau. Many complaints were also filed quickly, without enough investigation, leading to serious consequences.

To stop this misuse, the Court laid down guidelines, including forming Family Welfare Committees to check complaints before police action and making sure proper investigations happen before any arrest.

The Supreme Court laid down several guidelines and protections to stop the misuse of Section 498A in dowry harassment cases.

1. Family Welfare Committee-
  - a) Each district should establish one or more Family Welfare Committees which is setup by the District Legal Service Authority consisting of three members.
  - b) The Committee members may include para-legal volunteers, social workers, retired individuals, spouses of working officers, or other qualified and willing citizens.
  - c) The committee members will not be considered as witnesses in the case.
  - d) Any complaint filed under 498A that is received by the police or magistrate should be sent to the committee which will further interact with the parties involved in this case by

<sup>57</sup> The Code of Criminal Procedure, 1973

<sup>58</sup> Rajesh Sharma and Ors V State of U.P. and Ors (Criminal appeal no. 1265 of 2017)

personal meeting, phone calls, or electronic communication.

e) The committee must submit the report within one month from the date of receiving the complaint.

f) The report should include details of the case and the committee's opinion on the matter.

g) No arrest shall be made until no report from the committee is obtained.

h) The investigating officer or magistrate should evaluate the committee's report on its own merits.

i) The members of the committee should receive basic training.

j) The committee members shall be paid an honorarium.

k) The District and Sessions Judge may use the cost fund as necessary.

2. No Automatic Arrest<sup>59</sup>-. The police should not arrest the accused person solely on complaint. Arrests should be made after proper investigation and if allegations are supported by the evidence.

3. Proper Investigation- The complaints filed under Section 498A should be investigated by the designated officers who are trained particularly for such cases.

4. Bail Applications- Bail should be given quickly, ideally on the same day, with one day's notice to the Public Prosecutor or complainant. Bail should not be denied just because dowry items are disputed, as long as the wife and children's support is guaranteed.

5. Clubbing of Cases- The District Judge can combine all the matrimonial cases to hear them together for a better understanding of the situation.

6. Exemption on physical appearance in the court- The family members who are residing out of the station are not required to attend the

court. They can join the proceedings through video conferencing.

7. Exceptions- The above guidelines do not apply in cases of physical injuries and death.

The Supreme Court ordered all law enforcement agencies and courts to follow these guidelines for properly applying Section 498A. The case was sent back to the lower court for a new trial based on these instructions.

### Comment

The landmark judgement of Rajesh Sharma & Ors. vs. State of U.P. addresses key issues about women's rights and misuse of Section 498A. While the Supreme Court aims to reduce false accusations, it could unintentionally discourage the real victim from coming forward as they might fear being accused of lying.

The Courts's suggestion to create a Family Welfare Committee and to train the officers are good ideas but they should not create barriers for the victims. However, these measures must be implemented in such a manner that they don't create obstacles for the victims.

The important part of the judgement is the need for a helpful environment for victims. The legal system must make it easier for victims to report abuse without the fear of being treated as dishonest. The genuine victim should be provided with legal aid. Public awareness of the legal process and how to report abuse is essential. The Judicial system should encourage the victim to come forward with confidence as they will be treated impartially. Additionally, judges should make decisions carefully in cases of bail and arrests.

The quick bail applications and proper investigations outlined by the Court are important as it will help in maintaining fairness and avoid unnecessary imprisonment/arrests of the innocent individual. However, these measures should also not create barriers for genuine victims of dowry violence who may fear to complaint as it could be dismissed.

<sup>59</sup> Rajesh Sharma and Ors V State of U.P. and Ors (Criminal appeal no. 1265 of 2017)



The Judiciary must keep reviewing its decisions to ensure that women’s rights are protected and are not infringed upon while preventing the misuse of the law. In this case, the issue was not about a specific “false complaint” filed by the petitioner or respondent. Instead, the case focused on the misuse of Section 498A which is sometimes be used unfairly which often leads to innocent people being harassed.

