

## False Allegations and Gender Justice in India: A Critical Analysis of the Misuse of Section 498A IPC (Section 85 BNS), the Domestic Violence Act, and Rape Laws

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India's laws against dowry harassment, domestic violence, and sexual crimes were made to fight gender-based injustices that were happening all the time and to give women better legal protections than they had before. The current criticism focuses on the strategic use of unique gender rules in marriage disputes, which leads to criminal trials that often end without a conviction, but still cost the accused and the legal system a lot of money. This paper examines the conflict between victim protection and due process guarantees, particularly in relation to "cruelty by husband or his relatives" as delineated in Section 498A IPC, which has been largely superseded by Section 85 of the Bharatiya Nyaya Sanhita, 2023. It also addresses the methodological shortcomings of the Crime in India 2022 report, including the "principal offence rule" and the impact of recording/reporting practices on statistical data. The paper asserts that an effective reform agenda must be empirically validated, constitutionally sound, and institutionally practicable—improving investigative rigor, curtailing excessive application, and scrutinizing meticulously designed gender-neutral frameworks that protect all victims while recognizing the systemic reality of violence against women.

**Keywords-** Dowry Harassment Litigation, Domestic Violence Jurisprudence, Victim Protection Matrimonial Offences, Principal Offence Rule, Gender-Neutral Criminal Law

**Statement of the problem:** India's gender-specific criminal laws on dowry harassment, domestic violence, and sexual offences were designed to protect women from entrenched abuse, but in practice they are increasingly used in marital disputes in ways that generate concerns about over-breadth and misuse. High volumes of "cruelty by husband or his relatives" cases, as reflected in NCRB 2022, create severe human costs for many accused men and their families—through arrests, over-implication of relatives, and long trials ending without conviction—as well as heavy systemic burdens on an already strained justice system. The core problem is how to redesign this framework so that it continues to address pervasive violence against women while preventing "punishment by process," respecting Articles 14, 15, and 21, and moving towards more balanced, possibly gender-neutral protections for all genuine victims.

### Objective of Study

1. To critically examine the abuse of gendered statutes such as Section 498A IPC (now Section 85 BNS) and rape law in marital disputes between the need to protect victims and the rights to due process.
2. To analyze the crime statistics of women in the NCRB 2022 report, critically evaluating the issues and constraints in the high number of cases of cruelty and false closure.
3. To evaluate the cost for alleged perpetrators and their families (arrest and scandal) and for the system (delay and accumulation) related to litigation for matrimonial cruelty.
4. To assess the constitutional conflicts under Articles 14, 15, and 21, support procedural protection, fines for misrepresentation in complaints, and gender-neutral amendments without watering down women's rights.
5. To propose an empirically validated reform agenda on investigations, pre-litigation mediation, data transparency, and inclusive frameworks for all victims.

**Scope and Limitations:** The research centers around the abuse of the most crucial woman-specific criminal statutes in Indian law, namely, Section 498A IPC (replaced by Section 85 BNS), the Protection of Women from Domestic Violence Act, 2005, and the rape laws, and the manner in which they are enforced within the context of marital disputes. It is limited to the Doctrinal analysis of the statutes and statistics and does not entail the gathering of original data concerning the topic, since the nature of the inquiry is focused on reporting and commentary on the situation in the country due to the aforementioned statutes. The data is mainly based on the administrative data provided by NCRB, following the principal offence rule and only accounted for reported cases. The study does not consider any field surveys or victims' statements. The court results in acquisitions being considered with caution, not immediately linking higher conviction rates with misuse, while other social issues like patriarchy remain contextually defined and not measured.

**Methodology:** In this research paper, the research methodology used will be doctrinal research. It will analyze key legislation like Section 498A IPC, Section 85 BNS, The Protection of Women from Domestic Violence Act 2005, and constitutional aspects like Articles 14, 15, 21, and 15(3) with respect to the aspect of matrimonial cruelty. Secondary source includes NCRB Crime in India 2022 for the purpose of descriptive statistical analysis related to the number of cases and the closures by the police and the courts, and then supported by articles and other forms of judicial discourse. The analytic framework weaves together data validation of the NCRB statistics with normative assessments, cautiously referencing NCRB statistics regarding systemic pressures (the high rate of cases at police stations and the low rate of false reports) and indicating changes based on logical reasoning from constitutional imperatives.

### Introduction

India's gender justice trajectory in criminal law is closely tied to social movements and legislative responses to entrenched domestic violence, dowry linked cruelty, and sexual violence. The enactment and strengthening of provisions such as Section 498A IPC and the Protection of Women from Domestic Violence Act, 2005 reflected a policy judgment that the private sphere—especially the marital home—could no longer remain insulated from state scrutiny when serious harm occurred.

<sup>4</sup> At the same time, criminal law is uniquely coercive: it authorizes arrest, stigma, restrictions on liberty, and prolonged court supervision. When a criminal provision becomes a routine instrument in marital breakdown, property disputes, custody conflicts, or retaliation dynamics, its enforcement risks drifting from protection of the vulnerable to a leverage mechanism within bargaining processes that the criminal system is not designed to manage. This tension has become particularly visible around "cruelty by husband or his relatives" and allied matrimonial allegations because such complaints can involve multiple accused persons across an extended family and can trigger immediate policing consequences before a court evaluates evidence. In practice, the problem is not reducible to a simple binary of "real" versus "false" complaints: the category also includes exaggeration, over implication of relatives, poorly investigated cases, and disputes where civil remedies might be more proportionate than criminal prosecution.

A serious policy analysis therefore requires two commitments:

- (1) acknowledging that violence against women remains widespread and under reported in many contexts
- (2) insisting that the State's response must be compatible with constitutional fairness, evidentiary discipline, and proportionality, so that the law does not punish without proof and does not collapse under excessive volume and delay.

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<sup>4</sup> *The Silent Crisis: False Cases and Legal Harassment Against Men in India*, The Legal Catalyst (Apr. 15, 2025)

## NCRB 2022 Data: What It Shows—and What It Cannot Prove

### A. Headline numbers and composition of “crimes against women”

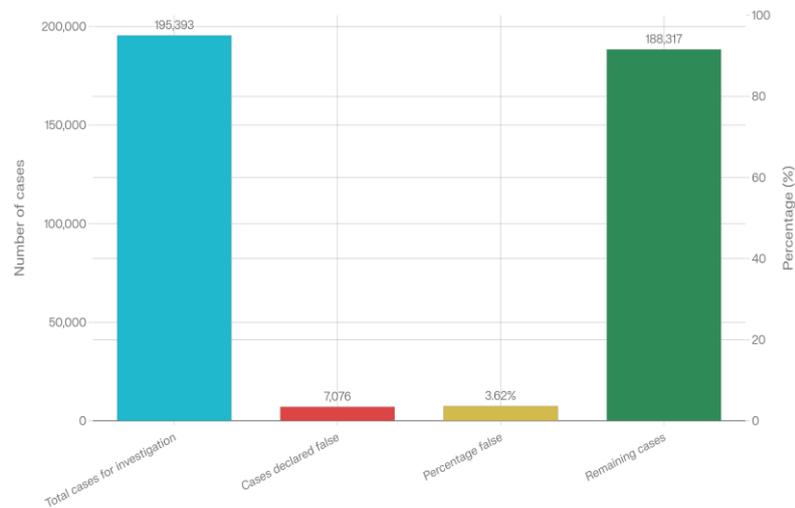
The NCRB’s Crime in India 2022 is the central official source for annually compiled police recorded crime statistics across States and Union Territories. Public reporting on the NCRB 2022 release indicates that India recorded 4,45,256 cases of crimes against women in 2022 (roughly “one every 51 minutes”), and that the largest IPC component was “cruelty by husband or his relatives,” accounting for 31.4% of IPC crimes against women.<sup>5</sup>

These two figures are often cited in debates about whether domestic violence is rising, whether reporting has improved, and whether policing priorities align with victim needs. They are also central to the “misuse” debate, because the same high volume that indicates the scale of domestic cruelty allegations can simultaneously create conditions in which low quality investigations, bargaining driven filings, and over implication become more likely.<sup>6</sup>

NCRB 2022 does not provide a distinct category labelled “fake cases against men,” but police-disposal data reveal how many registered cases in a certain crime category were closed as “false” (final report false) or error of fact/law, which is the closest official surrogate. A supplementary study based on NCRB 2022 suggests that, for cruelty by husband or his family (Section 498A IPC), police investigated around 1,95,393 instances in 2022, of which about 7,076 were closed as “false” in the final report—around 3.62% of all such investigations

### NCRB 2022 Section 498A IPC Investigation Outcomes

Only 3.62% of cases declared false during investigation



NCRB 2022: Police-investigation outcomes for 'cruelty by husband or his relatives' (Section 498A IPC) and proportion of cases declared false •

Total cases for investigation (2022): 1,95,393

- Cases declared false by police (final report false): 7,076
- Remaining cases (not declared false at investigation stage): 1,88,317
- Share declared false: about 3.62% of investigated 498A cases.<sup>7</sup>

The graph shows that only a small fraction of registered 498A cases are officially labelled “false” at the police-investigation stage, even though this still represents thousands of men and families facing complaints that investigators ultimately found to lack factual or legal basis. At the same time, the overwhelming majority of cases proceed as non-false in the records, which underlines why any argument about misuse must engage both realities: the real burden of false or mala fide cases on accused men, and the larger volume of complaints that the system treats as at least prima facie genuine and worthy of further process

### B. NCRB’s own limitations matter for legal conclusions

The NCRB (as explained in Volume III’s overview)<sup>8</sup> states that its statistics use the Principal Offence Rule, meaning that when multiple offences occur in one incident, only the most serious offence is counted for statistical recording. The NCRB also cautions that crime rates reflect reported and recorded offences and that higher numbers may sometimes reflect better recording practices rather than higher “incidence” in a social scientific sense. These limitations are not technical footnotes; they affect legal and normative claims. For example, using NCRB data to assert that “false cases are increasing” is methodologically weak because NCRB does not directly label complaints as “false” at registration stage, and acquittal alone is not proof of fabrication. Nevertheless, NCRB data can legitimately support narrower propositions, such as:

- (1) very large volumes of matrimonial cruelty allegations exist;
- (2) the system bears significant load;
- (3) outcomes—when coupled with qualitative judicial commentary—can indicate areas where process safeguards are failing or where the legal tool is being used beyond its most justified scope.

### C. Using trial outcomes carefully: acquittal, withdrawal, pendency

The core idea is that men can be trapped in long proceedings that end in acquittals or otherwise do not result in conviction, producing reputational and psychological harm regardless of final outcome. NCRB’s “disposal by courts”<sup>9</sup> and related outcome tables (in the Crime in India series) are relevant to measuring how often registered cases reach a conviction, remain pending, or end in acquittal/withdrawal/compromise.

<sup>5</sup> National Crime Recs. Bureau, Crime in India 2022: Volume III (Ministry of Home Affs., Gov’t of India, Dec. 2023) (as archived by Rural India Online), [ruralindiaonline](https://ruralindiaonline.org)

<sup>6</sup> Open Gov’t Data (OGD) Platform India, Crime in India – 2022 (catalog page) (last visited Dec. 12, 2025), [https://www.data.gov.in/catalog/crime-india-2022\\_data](https://www.data.gov.in/catalog/crime-india-2022_data)

<sup>7</sup> National Crime Recs. Bureau, Crime in India 2022: Volume III (Ministry of Home Affs., Gov’t of India, Dec. 2023) (as archived by Rural India Online), [ruralindiaonline](https://ruralindiaonline.org)

<sup>8</sup> National Crime Recs. Bureau, Crime in India 2022: Volume III (Ministry of Home Affs., Gov’t of India, Dec. 2023) (as archived by Rural India Online), [ruralindiaonline](https://ruralindiaonline.org)

<sup>9</sup> Over 4.45 lakh crimes against women in 2022, one every 51 minutes: NCRB, Frontline (Apr. 2, 2024), <https://frontline.thehindu.com/> (summarizing NCRB 2022 “crimes against women” totals and composition, incl. 31.4% cruelty by husband/relatives). [frontline.thehindu](https://frontline.thehindu.com/)

However, converting “low conviction” into “high falsity” is a logical jump that must be avoided in academic writing. Low conviction can result from weak investigations, witness hostility, settlement, evidentiary difficulties, poor prosecution, or judicial delay—factors that may coexist with genuine initial harm. A more defensible academic claim is that persistent gaps between registration and conviction, combined with long pendency, suggest a systemic mismatch between (a) the criminal law’s coercive power and (b) the institutional capacity to investigate and adjudicate these allegations quickly and accurately.

#### **The Causes of Misuse: Incentives, Institutions, and Procedures**

**A. Criminal law as a tool in familial disputes :** In marriage conflicts, parties often participate concurrently in civil, criminal, and quasi-criminal actions, including maintenance, divorce, custody, property disputes, and criminal charges stemming from marital activity. In a multifaceted disagreement, initiating or threatening criminal proceedings may enhance negotiating leverage by escalating immediate costs for the opposing party (fear of imprisonment, court appearances, reputational harm, professional repercussions) prior to the evaluation of the case’s merits. This dynamic does not suggest that the majority of complainants are behaving maliciously. It does, however, provide structural incentives for over filing, for identifying several relatives, and for tactical escalation, particularly when mediation channels are poor and where parties think that “hard pressure” is essential to secure settlement.<sup>10</sup>

**B. Over implication of relatives and the issue of “omnibus allegations:** A commonly mentioned tendency in court comments on marital cruelty cases is the designation of a broad collection of accused persons—parents, siblings, and distant relatives—supported by generic charges without personalized actions or dates. Such omnibus claims provide an investigative and judicial problem: the system must either (a) distinguish wheat from chaff early via rigorous investigation, or (b) allow the process itself to become punishment for many accused individuals who may have no link to the claimed conduct.

Where police resources are strained and legal aid quality varies, early filtering may not occur consistently. The consequence might be a legally “registered” case that is institutionally weak, but nonetheless imposes large process costs, increasing perceptions of abuse and eroding the credibility of legitimate complaints.

**C. Arrest tactics and the liberty cost :** Your proposal stresses “instant arrests without evidence” as a primary cause of harassment. This issue is connected to the larger due process premise that arrest should not be automatic upon complaint, particularly in offenses punished with up to seven years, where legislative protections stress necessity-based arrest and the use of notice measures. While secondary explainers debate the Supreme Court’s arrest safeguard strategy, attentive academic writing should depend on primary decisions for doctrinal statements and interpret blogs as informative rather than authoritative. For current purposes, the key argument is institutional: arrest decisions—if undertaken consistently and early—amplify the coercive power of criminal law and so magnify the harm inflicted when claims are weak, overstated, or not supported by evidence.

#### **Human Costs and System Costs**

**A. Accused side damages (even without conviction) :** The current situation reveals recurrent harms: job failures, societal shame, mental suffering, and family disruption encountered by males who endure extended criminal litigation. Even when exonerated, an accused individual might have already experienced considerable losses—employment interruption, litigation fees, and societal stigma—because criminal allegation itself has a social value independent of court judgment. These harms are not unique to matrimonial offences, but they are especially intense in intimate partner allegations because such claims often attract moral condemnation, media attention, and institutional reactions (suspension from job, passport/visa issues, housing discrimination) that are difficult to reverse<sup>11</sup>.

**B. Systemic harms: delay, backlog, and diversion of capacity :** Volume III’s overview underlines the scope of NCRB’s data as a national repository and also indicates that comparison assessments must be careful since the data is not weighted for gravity and includes documented crime. Yet even with these caveats, the sheer number of some categories (particularly marital cruelty) predicts extensive investigation and judicial time. When huge quantities of cases move slowly, two evils may occur simultaneously: actual victims may lose trust owing to delay, and weak cases may remain for years, inflicting unnecessary costs on accused individuals. Either way, delay becomes a justice denial device, and the credibility of protective criminal law crumbles. The criminal justice system, especially in situations involving divorce conflicts, causes enormous collateral harm that goes well beyond courtroom findings. This harm emerges in two crucial dimensions: the emotional sorrow suffered by accused persons and the institutional inefficiencies that impede justice delivery for everyone concerned.

**C. Personal Devastation: The Price of Accusation :** When someone faces criminal charges connected to domestic conflicts, the effects begin immediately—long before any court finding of guilt or innocence. The mere presence of a criminal accusation has enormous societal weight that acts irrespective of judicial results. This occurrence produces a contradiction where the allegation itself becomes a sort of punishment, regardless of subsequent exoneration. Men undergoing protracted criminal trials suffer a cascade of interrelated obstacles. Professional life frequently crumble when companies remove themselves from personnel entangled in criminal proceedings, especially those containing moral charges. The financial hardship goes beyond missed income to include escalating legal expenditures that may deplete family resources over months or years. Meanwhile, the psychological toll builds daily— anxiety, sadness, and emotional tiredness become frequent companions during prolonged legal fights. The social dimension proved as damaging. Community view swings substantially when criminal accusations appear, and this reputational harm remains incredibly hard to rectify. Friends withdraw, extended family connections strain, and social networks that formerly gave support collapse. This isolation worsens as trials go on, producing a lengthy feeling of social exile that remains even when people are finally cleared of wrongdoing.

**D. Why Matrimonial Cases Hit Harder:** While all criminal charges have major penalties, those involving personal connections produce particularly severe ramifications. This heightened effect arises from numerous variables functioning in combination. Allegations between spouses naturally generate strong moral responses from societies and organizations. These incidents usually garner public attention and media coverage that increases reputational damage immensely. Institutional reactions increase these challenges. Employers may suspend or fire workers facing such allegations, worried about workplace reputation or liabilities. Immigration officials may identify continuing criminal charges, preventing visa applications or passport renewals. Housing providers may reject tenancy to those with outstanding charges. Each institutional barrier produces practical impediments that impair everyday living and future planning. The fundamental challenge resides in the difficulty of reversing these results. Once an employer dismisses someone, once media coverage distributes unfavourable information, once community opinion solidifies— these effects defy rectification even when courts dismiss charges or provide not-guilty judgments. The accused person realizes that judicial vindication doesn’t immediately restore what was lost during the accusation phase.

**E. System-Wide Dysfunction: How Volume Undermines Justice:** The institutional study finds similarly disturbing tendencies. National crime data, although requiring careful interpretation, reveal that some categories—especially those connected to marital discord—generate significant caseloads. This volume produces predictable systemic stress that impairs justice delivery across numerous dimensions.

When courts and investigative agencies encounter excessive case numbers, processing time unavoidably slows. This delay causes a twin crisis that impacts various populations concurrently. Genuine victims seeking safety and justice suffer unacceptable waiting times that destroy trust in judicial

<sup>10</sup> <https://blog.finology.in/Legal-news/ncri-report-2023>

<sup>11</sup> *The Silent Crisis: False Cases and Legal Harassment Against Men in India*, The Legal Catalyst (Apr. 15, 2025)

systems. The system that exists to safeguard them instead becomes an impediment, exhibiting unreliability via its failure to offer fast solutions. Simultaneously, persons facing doubtful or baseless claims experience unduly protracted uncertainty. Cases without considerable merit still waste years moving through backlogs, during which accused parties endure the continuous effects indicated previously. This persistent exposure to accusation-based suffering happens even when the underlying case appears weak or finally collapses. **F. The Justice Denial Paradox:** This produces a strange scenario where delay itself converts into a mechanism of unfairness impacting all players. The classic concept that "justice delayed is justice denied" applies with special force here, but functions bidirectionally. Victims denied quick protection lose trust in mechanisms supposed to safeguard them. Accused persons denied speedy resolution undergo punishment-by-process regardless of guilt. The legitimacy of protective criminal law diminishes consequently. When rules meant to shelter vulnerable parties instead create large, slow-moving case volumes, the protective function deteriorates. Public trust erodes when individuals watch institutions failing to discriminate effectively between actual situations needing action and disagreements best handled via alternate channels. This systemic paralysis eventually betrays everyone involved. Protective laws become less protective when enforcement mechanisms crumble under their own weight. The machinery of justice, overburdened by volume and complexity, fails to give either protection for the vulnerable or fair treatment for the accused—leaving both groups victims of institutional failure.

### **Gender Neutrality: Conceptual Framework**

#### **A. What “gender neutrality” entails in law (and what it does not)**

“Gender neutrality” is sometimes presented as an easy drafting solution—replace “woman” with “person” or “husband” with “spouse.” But as a conceptual framework, gender neutrality has at least three distinct meanings

- (1) formal neutrality (law applies equally regardless of gender)
- (2) substantive neutrality (law accounts for real world unequal conditions and does not produce discriminatory outcomes);
- (3) institutional neutrality (policing, prosecution, and adjudication do not systematically prefer one gender’s testimony or suffering over another’s).

Confusing these levels leads to poor policy assertions. A technically neutral legislation may nonetheless function in a substantively gendered culture and can still yield consequences that disproportionately burden women, males, or gender diverse individuals based on enforcement patterns. Therefore, the issue is not whether neutrality is rhetorically appealing; it is if a particular neutral reform enhances accuracy, fairness, and safety results relative to the present gender specific approach.

#### **B. The Indian context: institutional patriarchy and the possibility of “false balance”**

A key criticism to gender neutral changes in domestic violence is that women disproportionately endure severe domestic abuse owing to systemic patriarchy, economic reliance, and societal limitations. A neutrality endeavour that overlooks these structural circumstances risks establishing “false balance”—treating two sides as equally placed when they are not.

At the same time, a legal system that refuses to identify male and gender varied victims at all may produce its own injustice by withholding protection and by driving disputes into skewed legal categories. A valid approach must thus distinguish two questions:

- (1) whether women endure disproportionate domestic damage (widely accepted); and
- (2) whether legislation should exclude other victims (a different ethical decision that may be inconsistent with equality and dignity ideals).

Gender neutrality in law ranges beyond such word changes as "woman" to "person," or "husband" to "spouse," to cover a multi-dimensional conceptual framework dealing with equality at the formal, substantive, and institutional levels. Formal neutrality requires, quite simply, that the law be applied equally to both genders without overt discrimination, putting everyone in a similar category legally without prejudice because of sex. Thus, this approach assumes comparable starting points, although in general, it tends to ignore persistent socioeconomic inequalities; critics argue that the approach actually masks rather than corrects fundamental injustices. Substantive neutrality goes beyond this to recognize living imbalances—in economic interdependence or culture, for instance—and builds into its structure measures to reduce unjust outcomes, so that the law achieves substantive, rather than merely formal, equality. It demands that the machinery for implementing the law, from police and investigation through to adjudication, not be structured in a way that leads to systemic bias in favor of one gender's claims or experiences over another gender's, lest application in practice be one-sided.

The confusion of these levels generally obstructs policy debate, as technically neutral regulations may extend harm in gendered society. For example, a law that was written in a manner oblivious might nonetheless disproportionately impact women because of enforcement practices embedded in patriarchy, wherein male power is rarely questioned. On the other hand, sex-specific protections may reinforce stereotypes if they fail to recognize male or gender-diverse victims, and real progress must focus on truth, justice, and safety, not on rhetorical appeal. Technical neutrality in drafting does not ensure equal outcomes in gendered societies; effects turn on how laws play out against cultural facts, particularly on disparities of power which amplify vulnerabilities and costs for subjugated groups.

In India, this paradigm clashes with entrenched institutional patriarchy, a pervasive system that entrenches male superiority in the family, commerce, and statutory law, which many critics contend gives rise to disproportionately severe domestic violence against women.

Patriarchy upholds rigid norms—women are to be dutiful dependents, men the breadwinners—normalizing abuse within the marital home as "discipline" while equating women's freedom with family dignity, often with unreported assault. The Protection of Women from Domestic Violence Act, 2005, illustrates gendered legislation: it provides women with civil remedies for physical, emotional, sexual, or economic abuse by a relative. However, it explicitly excludes men and gender-variant individuals. It has proved useful for many women at points of structural weakness, such as economic dependence; hence, as substantive equality, it attempts to address historical barriers, although evidence suggests that women face higher reported incidence rates, reflecting underreporting among men due to stigma. This, in turn, raises the debate on "false balance." Balancing two parties that are not equally placed—women under institutional oppression and males in positions of domination—amounts to forgetting context and erosion of safeguards.

Proponents argue that neutrality is in accord with constitutional equality ordained under Articles 14 and 21 and takes away unfairness to male victims; based on polls, emotional abuse against males is roughly at 50%, physical at lower but considerable levels, with up to 3 crore instances, including in-law violence. But its opponents are concerned it might encourage abuse, like what has happened to Section 498A dowry cases turning spiteful, without recognizing women are disproportionately victims because of patriarchy. False balance arises when policies project the image of both genders being proportionately harmed and relegate the relatively higher susceptibility of women to a side, and others undermine dignity for all.

A balanced approach separates facts from ethics: women incur outsized domestic damage, a well-established truth from NFHS data forward, but legislation must not ban non-women victims to promote equality principles. Adjustments for gender neutrality, much like in POCSO for the safety of children, function by protecting all with no presumptions, and yet they need safeguards such as training against prejudice. India's court shows tension—Delhi High Court orders deny males PWDVA assistance, while experts say frameworks should instead be inclusive to reduce abuse and stigma. Ultimately, improvements require data-driven scrutiny: quantify victimization across genders, advance institutional neutrality through impartial enforcement, and integrate formal access with actual remedies.

In this way, it avoids false equivalency and strengthens justice without erasing context in the process, thereby creating rules which protect everyone regardless of evolving social norms.

## Constitutional Foundations: Equality, Liberty, and Proportionality

### A. Articles 14, 15 and 21 as the normative anchor

Any review of gender specific criminal legislation must begin with the constitutional principles of equality before the law, equal protection, and personal liberty. Article 14 mandates that legal categories have a reasonable relationship with a legitimate aim, whereas Article 15(3) enables “special provisions” for women and children, and Article 21 protects life and personal liberty against arbitrary deprivation.

Gender specific criminal laws targeted at women’s protection are often justified under Article 15(3) as corrective measures reacting to patriarchal abuses, which is why provisions like Section 498A IPC were affirmed as logical and necessary when established. At the same time, Article 21 and due process philosophy demand that any constraint on liberty be non-arbitrary, minimum required, and proportional to the legitimate aim sought, including in the design of offenses, arrest powers, and bail procedures.

### B. Special protection vs. excessive breadth

There is no constitutional necessity that protection always be gender neutral; Article 15(3) specifically considers actions benefiting women. However, once a special provision is adopted, its design and execution must avoid excessive breadth and evident arbitrariness, since these might clash with Articles 14 and 21 even when the purpose is commendable.

In the context of matrimonial cruelty and domestic violence, over breadth can take several forms: vague statutory language that allows any marital disagreement to be framed as criminal cruelty; absence of clear thresholds for arrest; and lack of institutional safeguards against naming distant relatives without specific allegations. Where such over broad causes predictable patterns of extended, non-meritorious prosecutions, the constitutional problem is not that women are being protected, but that liberty is being limited without proper tailoring or procedural protections.

### C. Gender neutrality as an equality enhancing—not equality reducing—move

From a constitutional standpoint, gender neutral reform may be regarded not as rolling back women’s rights but as providing protection and justice to similarly situated victims and accused regardless of sex or gender identity. If empirical data demonstrates that certain males and gender diverse individuals suffer domestic or intimate partner abuse but lack equitable access to legal remedies, excluding them may contradict with the spirit of Articles 14 and 21, even if women remain the majority of victims.

Similarly, if current rules allow tactical or abusive use of criminal proceedings, enhancing protections against obviously false complaints may be justified as a proportionality requirement under Article 21 rather than as a reduction of women’s protection. Framed this manner, the normative objective is a system where the State’s protective and coercive powers are employed precisely and even handedly, with the greatest intensity reserved for the gravest damages, regardless of the genders of those engaged<sup>12</sup>.

The Indian Constitution defines equality, liberty, and proportionality as core principles that critically evaluate gender-specific criminal law, notably via Articles 14, 15, and 21. Article 14 demands equality before the law and equal protection, authorizing acceptable categorization only when it depends on understandable differentia with a logical link to a legitimate aim, hence preventing arbitrariness or class legislation. Article 15(3) carves out an exemption, permitting specific rules for women and children to counter persistent patriarchal disadvantages, as reinforced in legal interpretations sustaining protective measures like those against dowry harassment. Article 21 preserves life and personal liberty, including due process and the proportionality criterion, which mandates that liberty limits be fair, reasonable, and minimally invasive.

Gender-specific legislation, such as Section 498A of the Indian Penal Code addressing marital cruelty, acquire legitimacy under Article 15(3) as corrective remedies to systematic abuses, with the Supreme Court confirming its constitutional validity to fight dowry menaces. Yet, this legitimacy demands exact tailoring; overbreadth—manifest in broad cruelty definitions, uncontrolled arrests, or involving far relatives without specificity—risks breaching Articles 14 and 21 by permitting abuse and arbitrary prosecutions. Proportionality involves procedural safeguards, including pre-arrest inquiry, to ensure coercive methods fit the harm’s seriousness, avoiding “legal terrorism” from diminishing legitimate rights.

The contradiction between special protection and constitutional boundaries shows that Article 15(3) does not immunize legislation from examination; excessive breadth contravenes non-arbitrariness under Article 14 and fair process under Article 21, even for good goals. In domestic violence situations, actual patterns of extended, non-meritorious proceedings against innocents illustrate this issue, not in protecting women per se, but in poor design missing thresholds or institutional checks.

Gender neutrality emerges not as regressive but as an equality-enhancing change associated with Articles 14 and 21, providing remedies to all similarly situated victims—men, transgender, or non-binary individuals—facing intimate relationship violence, without weakening women’s majority rights. Exclusionary frameworks may maintain arbitrariness if data indicates differential affects, whereas measures against false complaints satisfy proportionality by reserving state compulsion for significant damages. This strategy refines the system’s accuracy, assuring even-handed application irrespective of gender.

Constitutionally, the imperative is calibrated state action: protective but controlled, intelligent yet compassionate. Gender-specific provisions must grow via procedural rigor and inclusion to balance substantive equality with liberty, expressing a jurisprudence where compassion yields to constitutional truth.

## Detailed Reform Proposals

**A. Structured pre litigation paths in nonviolent marital conflicts :** Your proposal offers required mediation before filing some marital FIRs, and this might be developed into a systematic pre litigation approach. For allegations that do not involve specific, serious physical or sexual violence (for example, cases primarily about financial disputes, household conflicts, or emotional grievances), parties could be routed first to: (1) a government supported family counselling or mediation centre; and (2) a neutral legal aid cell that explains both civil and criminal options.

The pre lawsuit stage should be:

- Time bound: For example, limited at 60–90 days, with interim protection orders available if required.
- Screened: Mediators and counsellors should be educated to recognize actual danger of violence and highlight circumstances when urgent criminal action is essential.
- Non coercive: Participation should not be used to compel victims into risky compromise, and serious claims should not be lowered to “mere disputes.”

Such a system would not preclude prompt filing of FIRs when there is imminent risk or substantial previous violence, but it would lessen dependence on non bailable criminal laws as the initial step in basically civil or relationship problems.

**B. Clearer rules and punishments for obviously false complaints :** The proposal notes that false accusers are seldom prosecuted even when courts record unequivocal findings of falsification. Existing rules (for example, those penalising the furnishing of false information, perjury, or false complaints under the BNS) already offer punishments, but they are under-utilized since trial courts generally end at acquittal without beginning follow up action.

A modest, balanced change would be: • Issuing guidelines that where a court records a reasoned conclusion that charges were wilfully falsified or malicious—not just unproven—it should undertake a separate hearing to evaluate whether a punishment is warranted.

<sup>12</sup> Drishti IAS, NCRB’s Crime in India 2022 Report: Key Highlights (2023), <https://www.drishtijas.com> (general overview of main NCRB 2022 trends)

- Prioritising non-custodial punishments (fines, community labour, obligatory apology orders, or restorative procedures) for first time offenders, reserving jail terms for severe or chronic misuse.
- Ensuring that this procedure is not activated automatically on every acquittal, but only when the court clearly characterises the complaint as false or mala fide.

This strategy answers to your concern about responsibility for abuse while avoiding the danger that fear of punishment would dissuade actual victims from coming forward.

**C. Arrest, charge sheet, and bail processes for marital crimes :** As your draft states, arrest at the beginning stage is one of the most important coercive measures and may easily be exploited. Building on the idea that arrest should be need based rather than complaint based, a reform package may include.

- Supervisory consent for arrest of relatives outside the marriage, with a written rationale describing particular claims and proof.
- Mandatory examination of alternatives to arrest (such as notices to appear, travel limitations, or bail conditions) in non-violent instances.
- Periodic review of custody in marital offenses, with higher courts reviewing trends of pre-trial detention and providing remedial orders if warranted.<sup>13</sup>

Similarly, charge sheet submission should need a basic evidentiary threshold: police instructions might highlight that just repeating the words of the legislation without actual information should not be enough for listing several relatives. Where courts discover that family members were lured in without substance, they might clearly record this and demand necessary remedial training or departmental review.

**D. Data openness and disaggregation for policy assessment :** NCRB already releases thorough information on registration, disposition, conviction, and pendency across crime categories. However, the current format does not always separate out key sub categories relevant to the misuse debate—for example, it often does not show, within a given offence, what proportion of cases ended in compromise, quashing, withdrawal, “false” classification at the police stage, or acquittal after trial. A more detailed reporting approach could:

- Break down court disposals by form of termination (conviction, acquittal after disputed trial, compromise/compounding, quashing by higher court, withdrawal).

- Record, when legislatively permissible, whether a case was closed at the police stage as “mistake of fact,” “mistake of law,” or “false,” but admitting that these designations may itself be challenged.
- Provide time to disposal data, so that policymakers may identify categories where pendency is more problematic.

Such openness would assist change public discourse from anecdote driven argument to fact informed reform, enabling both women’s rights activists and men’s rights organizations to root their assertions in a common empirical baseline.

**E. Incremental shift to gender neutral protections :** Your proposal proposes gender neutral domestic violence and sexual crime rules so that “all victims, regardless of gender” are covered. In actuality, a quick, across the board adjustment would find political opposition and practical obstacles; a gradual approach is more feasible and more respectful of current women’s protection structures.

Such an approach could involve:

- Making certain core domestic violence offences (physical assault, severe emotional abuse, economic deprivation in intimate relationships) gender neutral in the criminal code, while retaining women focused civil remedies and support services where justified by evidence of structural disadvantage.

- Introducing parallel civil protection orders that any intimate partner abuse victim, irrespective of gender, may seek—mirroring the framework of current domestic violence law but without abolishing women’s unique protections.
- Conducting pilot programs in selected areas where police, prosecutors, and shelters are educated to handle male and gender diverse victims, with assessment before expanding up.

This concept tries to recognize both sides of the equation: acknowledging persistent violence against women while also eliminating legal blind spots and minimizing abuse that damages men and their families.

#### **Methodology and Responsible Use of NCRB 2022 Data**

**A. Distinguishing between descriptive and causal assertions :** Because NCRB’s Crime in India 2022<sup>14</sup> is an administrative dataset derived from police records, it is most dependable for descriptive claims: how many cases were registered in a category, how many were listed as pending, and how courts reported disposals over a given year. It is not, by itself, adequate to show precise causal assumptions about why crimes occur, why cases fail, or how frequently claims are made. In this paper, NCRB 2022 data is used in a conservative manner: to show that “cruelty by husband or his relatives” forms a large share of reported crimes against women and that this category contributes significantly to criminal justice workload, which in turn magnifies the importance of designing proportionate and accurate responses. Where the study analyses abuse or false cases, it does so by integrating NCRB’s result patterns with court comments and qualitative reports rather than by taking acquittal as a straight proxy for untruth.

**B. Avoiding excessive interpretation of acquittal and conviction rates :** NCRB’s conviction rate numbers are commonly utilized in public debate as simplistic “success” or “failure” measures. However, as NCRB and independent analyses note, low conviction in a category can reflect multiple factors, including delayed trials, poor investigation, witness intimidation, compromise after filing, or evidentiary complexity, especially in intimate partner cases that depend heavily on oral testimony. Therefore, in keeping with the methodological warnings in Volume III, this research utilizes conviction rates solely to illustrate that system performance is strained—rather than to designate vast numbers of complaints as fraudulent. This helps preserve intellectual honesty and cautions against utilizing official data in ways that neither NCRB nor courts support. The NCRB’s Crime in India 2022 is a huge administrative dataset that has been produced on the basis of police records across the entire country. Being of a certain origin and following a certain method of data collection, the type of information it provides is descriptive in nature and not explanatory. This essentially goes on to say that it provides us with what has happened in terms of cases that have been registered, those pending, and those disposed of in the courts, but it does not have the capabilities of explaining why certain things have occurred or how certain forces are driving these events in society. This kind of administrative data is representative of institutional patterns and practices of reporting, however not the full truth regarding crime in the societal landscape. Thus, the usage of this data properly would be in recognizing its strengths in being a more accurate predictive tool in regards to proportions and patterns rather than causations. In examining crimes against women, then looking at the crime type described as “cruelty by husband or his relatives,” the data shows that this type of crime represents a very high percentage of total crimes recorded. This data shows the prevalence and severity of violence-related complaints pertaining to domestic PARTS in India. This data merely reports prevalence and tendencies; it does not attribute reason for its prevalence or the authenticity of personal reports in and of itself. This study will view these results as indicative of the burden placed on the system and as inputs to policy and administration focus, not as indicative of guilty or innocent party status. This presentation will keep a very clean and conservative focus – one employing the NCRB results to determine the severity of concerns expressed but not to make judgments based on those results.<sup>15</sup>

<sup>13</sup> *Armesh Kumar vs. State of Bihar (2014)*, iPleaders Blog (Feb. 7, 2025), <https://blog.iplayers.in/> (secondary explainer on arrest-related safeguards; cite primary judgment in final submission).iplayers

<sup>14</sup> National Crime Record. Bureau, *Crime in India 2022: Volume I-III* (Ministry of Home Affs., Gov’t of India 2023)

<sup>15</sup> The Legal Catalyst, *The Silent Crisis: False Cases and Legal Harassment Against Men in India* (Apr. 15, 2025), <https://thelercatalyst1.wordpress.com>

Moreover, the study moves beyond the use of simple numbers to incorporate other sources like court observation. In this way, the study seeks to overcome the common mistake where a verdict of acquittal is presumed as evidence for a misleading report and a conviction as evidence for a truthful report. Several issues like flawed evidence gathering, intimidation of witnesses, delay in court proceedings, and compromise outside court may arise. In light of this, there could be uncertainties that do not align well with the facts. The issue of evidentiary complexity could be paramount in intimate partner cases where trials usually depend on oral evidence and take place in a private setting.

In public disputes, conviction rates are often used as the success and failure parameters of the criminal justice system. However, these rates, if presented out of context, might markedly distort the perception. A conviction rate might point towards the inefficiencies and unorganized structure of the system and not necessarily towards the fallibility of the charges themselves. This is what the NCRB and other researchers point towards—the conviction rate cannot and should not form the sole criterion for the detection of the reality of charges being false or true because the conviction rate might reflect the strain and delay on the system. As a result, findings from this research view NCRB conviction data, rather as an indication of a verdict beyond truth in cases, as expressions of pressure within a judicial setting.

In this manner, a proper interpretation concerning data integrity is protected. No complaining party stigma is preserved, yet truth and proper interpretation remain. The proper use of NCRB data for 2022 is thus contingent on a discerning boundary between what can be ascertained and what further knowledge is required beyond data concerns.

### Conclusion and Suggestions

#### Conclusion

The Indian case towards gender justice in criminal law is a necessary and inevitable response to severely entrenched patterns of domestic violence, dowry-based cruelty, and patriarchy in private relationships whereby women have long been oppressed in their most intimate relationships. The legal system of amendments and legislation, from Section 85 of the Bharatiya Nyaya Sanhita (previously Section 498A of the IPC), the Protection of Women from Domestic Violence Act, and rape laws, has been a necessary acknowledgement of the failure of the private realm to remain beyond the reach of state intervention, particularly in cases of serious problems occurring within such a domain. Women have had recourse to the law in cases wherein structural disadvantages, economic subordination, and societal limitations had made them especially vulnerable. But the study that is available through the article above shows that harmful consequences can affect the rights of the suspected and the viability of the protective system if the legislation is inadequately planned and implemented. The real scenario that is revealed by NCRB 2022 statistics and other critical judicial discourse shows that the criminal justice system is working under extreme strain. The number of allegations regarding marital cruelty—itsself representing about a third of total crimes committed on women—is indicative of institutional strains that emerge through delay and process-induced punishment that works independently of judicial outcomes. However, the judicial structure that finds sustenance under Articles 14, 15, and 21 of the Indian Constitution emphasizes that the force exercised by the state has to be exercised clearly, moderately, and procedurally just. Though Article 15(3) lays down the provision for special treatment for women to overcome their disadvantage, such permission shall not protect or excuse such laws from being challenged for being overbroad, unclear, or procedurally flawed that could lead to abuse. The challenge is not to prefer women or adhere to the principle of due process, but to create a framework that supports both aims jointly. The human cost documented in this analysis in terms of job displacement, social stigma, mental suffering, and dissolution of families for the innocent who have been acquitted is not a contrarian view of women's protection under the laws of the land but a site of systemic failure that ought to be remedied. Likewise, systemic failure in the form of high case queues, victim injustice in relation to truth, and a waning collective notion of trust within formal institutions of justice suggest towards the need to enhance rather than reduce protective standards of the criminal justice system. Gender equality, properly conceived, is not about creating a false equality between inherently unequal roles but means an evolution toward justice schemes inclusive of diverse forms of victimization, retaining a heightened concern with those patterns of violence which continue to affect women. The aim, of course, should be a justice system which uses its most coercive sanctions of arrest, prosecution, and incarceration with care, saving fullest force for those forms of harm which are most severe, but finding less drastic solutions to problems of lowers severity.

#### Suggestion

**Institutional Capacity-Building:** Enhance investigative skills by providing trained personnel to police officers dealing with matrimonial disputes. The skills should include evidence-based inquiry and trauma-informed interviewing practices and the ability to make early referrals between criminal and civil matters. Set up specialized units to conduct family crime-related investigative work and ensure adequate mechanisms are in place to hold them accountable. **Structured Pre-Litigation Channels:** The development of mandatory pre-filing mediation and therapy channels to handle disputes between spouses that do not pose an threat of imminent bodily harm or credible evidence of severe violence. They must have a time limit (between 60-90 days), adequate funding, and staff with the necessary expertise to identify identified abuse while having the power to grant interim protection orders as appropriate.

- A. Procedural Safeguards Against Arrest Abuse:** Set up the criteria for supervisory approval of the arrest of distant relatives, requiring the written grounds for the claims and supporting documentation. Mandate the evaluation of alternatives to arrest, such as notices to appear, travel restrictions, and constructive bail, in the case of non-violent offenses. Put in place regular review mechanisms for court to evaluate the trends in pre-trial incarceration and address inconsistencies.
- B. Accountability for Malicious Prosecution:** Make it a judicial precedent to have Heard cases where the courts document informed judgments that there was deliberate fabrication of charges and malice (not merely unsubstantiated claims). Emphasize non-custodial sentences: fines, community service, and restorative justice processes for first offenders and hard cases that warrant imprisonment. The policy should not chill would-be victims to prevent them from coming for redress.
- C. Improved Transparency and Disaggregation:** Reform the NCRB data on case disposition, doing justice to the disaggregation by distinguishing between conviction, acquittal on contentious issues, compromise, quashing by higher courts, and withdrawal. Use time to disposal and police-stage case categorization with proper methodological restrictions. This shall encourage evidence-based policy debate over the current anecdotal lobbying.
- D. Gradual Progress towards Equal Gender Protections:** Trial implementation and support for gender-equal violence policies by highly trained law enforcement, prosecution, and judiciary personnel in select countries. Women-only civil rights and support services on record as supporting structural inequality if backed by evidence. Full evaluation prior to mass adoption and ensuring that enhanced provisions benefit all victims without neglecting disparity in violence against women. **Expedited Adjudication Mechanisms:** Establish fast-track courts dealing specifically with marital crimes and strictly fixing time limits for completing investigations, submitting charge sheets, and completing trials. Use case management systems that emphasize violent cases and select cases for alternative conflict resolution. **Public Education and Legal Literacy:** Engage in continuous public education campaigns about the effective use of criminal law in family disputes, available civil recourse, and consequences of abusing the justice system. Provide legal aid services that guide contending parties on options available before resorting to criminal litigation. These reforms, implemented cumulatively, can turn around the situation of domestic violence in India from one of force, delay, and collateral damage into one of efficacious protection, measured restraint, and fulfilment of constitutional obligations to equality and liberty for all persons, male and female.