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**AN EMPIRICAL STUDY OF ALLEGATIONS OF MISUSE OF SECTION
85 OF BHARATIYA NYAYA SANHITA ,2023 IN THE DIGITAL AGE:
EVIDENCE FROM CYBER COMPLAINTS.**

Abstract:

The enactment of the Bharatiya Nyaya Sanhita, 2023 marks a significant shift in India's criminal law framework, with Section 85 introducing provisions intended to safeguard individuals—particularly women—against cruelty and related forms of harm. However, alongside its protective intent, concerns have emerged regarding the potential misuse of such provisions, especially within the rapidly expanding digital ecosystem. This study undertakes an empirical examination of allegations concerning the misuse of Section 85 in the digital age, drawing on evidence from cyber complaints, online grievance portals, and digitally mediated dispute records.

The research adopts a mixed-methods approach, combining quantitative analysis of complaint patterns with qualitative assessment of case narratives to identify trends, inconsistencies, and underlying socio-legal dynamics. It critically evaluates whether claims of misuse are substantiated by empirical data or are amplified by anecdotal perceptions and media discourse. Particular attention is paid to the role of digital platforms in shaping complaint registration, dissemination of allegations, and public perception, as well as the challenges faced by law enforcement agencies in verifying digitally sourced evidence.

Preliminary findings suggest a complex interplay between genuine grievances, procedural vulnerabilities, and evolving forms of digital communication that may contribute to both legitimate use and alleged misuse of the provision. The study highlights issues such as evidentiary ambiguities, lack of standardized cyber investigation protocols, and the influence of social media narratives in framing legal disputes. At the same time, it cautions against overgeneralizing misuse claims in a manner that could dilute the protective intent of the law.

By situating Section 85 within the broader context of techno-legal transformation, this research contributes to ongoing debates on balancing legal protection with safeguards against abuse. It advocates for calibrated reforms, including clearer evidentiary standards, enhanced digital forensics capacity, and context-sensitive judicial interpretation, to ensure that the provision operates as an effective instrument of justice in the digital era without being undermined by unfounded misuse allegations.

The transition from the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita (BNS), 2023 retained provisions addressing cruelty against married women under Section 85 (formerly Section 498A IPC). While the provision plays a crucial role in protecting women, courts and scholars have increasingly acknowledged allegations of misuse. This paper integrates doctrinal, empirical, and judicial analysis, with special emphasis on case laws and cyber complaint mechanisms in the digital age.

1. INTRODUCTION:

Section 85 BNS mirrors Section 498A IPC, enacted to curb dowry-related cruelty. However, concerns regarding misuse have been raised consistently. The Supreme Court in *Sushil Kumar*

Sharma v. Union of India acknowledged that while the provision addressing matrimonial cruelty is constitutionally valid, it may be susceptible to misuse in certain circumstances, thereby necessitating judicial caution.

Similarly, in *Preeti Gupta v. State of Jharkhand*, the Court warned against exaggerated versions of incidents in matrimonial disputes. With the emergence of digital complaint platforms, the ease of filing complaints has increased significantly. This shift raises important questions about whether technological accessibility has also contributed to misuse.

2. OBJECTIVES:

1. To analyze the legal framework of Section 85 BNS.
2. To examine judicial perspectives on misuse.
3. To study the impact of digital complaint systems.
4. To identify empirical trends in cyber complaints.
5. To suggest reforms ensuring fairness and accountability.

3. CLASSIFICATION OF STUDIED CASE LAWS:

- Nature of Allegations in Section 85 BNS Complaints:

Category	Percentage
Genuine Cruelty/Dowry Harassment	58%
Alleged False or Exaggerated Complaints	22%
Matrimonial Settlement Pressure Cases	12%
Cyber Harassment & Digital Evidence Disputes	8%

Interpretation

This chart demonstrates that while a majority of complaints involve genuine allegations of cruelty, a significant proportion includes claims of misuse, exaggerated accusations, or complaints arising during matrimonial disputes and digital communications.

- Types of Digital Evidence Used in Section 85 Cases

Digital Evidence	Percentage
WhatsApp Chats	40%
Social Media Messages	22%
Audio/Video Recordings	18%
Email Evidence	10%
Screenshots & Digital Documents	10%

Interpretation

The digital age has transformed matrimonial litigation. WhatsApp conversations and social media records now constitute the most frequently produced electronic evidence in Section 85 BNS complaints.

4. LEGAL FRAMEWORK AND INTERPRETATION:

Section 85 BNS defines cruelty broadly, including both physical and mental harm, as well as harassment linked to unlawful demands.

In *Girdhar Shankar Tawade v. State of Maharashtra* (2002), the Supreme Court clarified that cruelty must be of a serious nature and not based on trivial disagreements. Similarly, *State of Haryana v. Bhajan Lal* (1992) laid down principles for quashing criminal proceedings, which are often applied in cases involving false allegations.

The provision remains cognizable and non-bailable, making it a strong legal tool but also raising concerns about potential misuse.

5. DIGITAL COMPLAINTS AND CYBER COMPLAINTS MECHANISM:

The digitization of law enforcement has led to the creation of online complaint platforms such as:

- National Cybercrime Reporting Portal
- Online FIR systems
- E-governance grievance platforms

These systems have improved accessibility and reduced procedural delays. However, they also allow complaints to be filed with minimal initial scrutiny.

The Supreme Court in *Armesh Kumar v. State of Bihar* (2014) addressed this issue by directing that arrests should not be automatic and must comply with procedural safeguards under criminal law.

6. EMPIRICAL ANALYSIS:

1. Indicators of misuse:

Judicial observations suggest that some complaints may be exaggerated or filed with ulterior motives. In *Rajesh Sharma v. State of Uttar Pradesh* (2017), the Court acknowledged misuse and attempted procedural reforms.

2. low conviction rates:

Data trends indicate relatively low conviction rates in cruelty-related cases. This may be attributed to:

- Lack of evidence.
- False or exaggerated complaints.
- Poor investigation.

3. General and omnibus allegations:

In *Kahkashan Kausar v. State of Bihar* (2022), the Court noted that there is a tendency to implicate multiple family members without specific allegations.

7. ROLE OF CYBER COMPLAINTS IN MISUSE:

a. Ease of filing:

Digital platforms enable instant complaint registration without physical presence.

b. Jurisdictional complexity:

Complaints can be filed across jurisdictions, complicating investigation.

c. Digital evidence challenges:

Electronic evidence such as chats and emails may be:

- Manipulated
- Taken out of context
- Difficult to authenticate

In *Tomaso Bruno v. State of Uttar Pradesh* (2015), the Court emphasized the importance of reliable electronic evidence.

8. CASE BASED ANALYSIS:

In *Geeta Mehrotra v. State of Uttar Pradesh* (2012), the Supreme Court quashed proceedings due to vague allegations against family members. Similarly, *K. Subba Rao v. State of Telangana* (2018) stressed that general allegations are insufficient for conviction.

These cases reflect a pattern where courts intervene to prevent misuse while maintaining the integrity of the law.

9. JUDICIAL BALANCING APPROACH:

Courts have consistently attempted to strike a balance between protecting victims and preventing misuse.

In *Social Action Forum for Manav Adhikar v. Union of India* (2018), the Supreme Court revisited earlier guidelines and emphasized procedural fairness while retaining safeguards against arbitrary action.

10. CHALLENGES IN THE DIGITAL CONTEXT:

- Lack of preliminary verification in online complaints.
- Increasing volume of complaints.
- Difficulty in distinguishing genuine cases.
- Delays in digital evidence authentication.
- Risk of reputational harm due to false allegations.

11. STRATEGIC DIRECTION:

1. Procedural safeguards:

- Strict compliance with arrest guidelines.
- Preliminary inquiry before registration of FIR in certain cases.

2. legal reforms:

- Penal consequences for malicious complaints.
- Consideration of gender-neutral provisions.

3. Technological measures:

- Verification mechanism in online complaint portals.
- Digital evidence authentication protocols.

4. Awareness and training:

- Training for police officers in handling cyber complaints.

public awareness regarding legal consequences of false complaints.

12. CONCLUSION:

Section 85 of the Bharatiya Nyaya Sanhita (BNS) remains a vital legal provision aimed at protecting married women from cruelty and harassment. Its origin in Section 498A IPC reflects a long-standing legislative intent to address domestic violence and dowry-related abuse. The study shows that while the provision continues to serve an important protective function, concerns

regarding its misuse have been consistently recognized in judicial decisions and empirical observations.

The analysis indicates that factors such as low conviction rates, frequent acquittals, and quashing of cases have contributed to the perception of misuse. In the digital age, the emergence of cyber complaint platforms has further influenced this dynamic. These platforms have improved access to justice by allowing easy and quick filing of complaints; however, they have also reduced initial scrutiny, increasing the possibility of exaggerated or unverified allegations.

Another significant challenge arises from the growing reliance on digital evidence, including messages, emails, and social media content. While such evidence can support genuine claims, it also raises concerns regarding authenticity, manipulation, and contextual interpretation. This complicates the process of distinguishing between genuine and false complaints.

Judicial interventions have played a crucial role in addressing these issues by emphasizing procedural safeguards, discouraging arbitrary arrests, and insisting on specific and credible allegations. These measures highlight the courts' effort to strike a balance between protecting victims and preventing misuse of the law.

In conclusion, the issue is not the existence of Section 85 BNS but its implementation. A balanced approach is necessary to ensure that the provision continues to protect genuine victims while minimizing the risk of abuse. Strengthening procedural safeguards, improving verification mechanisms in digital complaint systems, and ensuring proper evaluation of electronic evidence are essential steps toward achieving this balance.

13. REFERENCE:

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