2026 LiveLaw (SC) 753

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KAROL; J., NONGMEIKAPAM KOTISWAR SINGH; J.
August 3, 2026
CRIMINAL APPEAL No (s). OF 2026 (Arising out of SLP(Crl.) No(s). 2240-2241 of 2026)
DR. LOKESH B.H. & ORS. *versus* **STATE OF KARNATAKA & ANR.**

Indian Penal Code, 1860 (IPC) — Section 498A — Applicability to Live-In Relationships — "Relationship in the Nature of Marriage" — Purposive Interpretation — Fundamental Rights — Articles 14, 15, and 21 of the Constitution of India – i. Applicability of Section 498A IPC to Live-In Relationships - Held, Section 498A IPC applies to "live-in relationships" that qualify as "relationships in the nature of marriage," provided that the *intent to marry* is established as an intrinsic element - Giving a restrictive or purely literal interpretation to the word "husband" to exclude live-in partners would defeat the social, reformative, and protective legislative objective of the provision – ii. Constitutional Imperative (Article 14) - Creating a distinction between a legally wedded wife and a female partner in a relationship in the nature of marriage for protection against domestic cruelty lacks any rational nexus with the legislative objective of curbing domestic abuse - Differentiating solely on the basis of formal ceremonial marriage violates Article 14 of the Constitution of India – iii. Individual Choice and Autonomy (Article 21) - The right to choose a life partner is an intrinsic facet of individual autonomy and dignity under Article 21, encompassing spatial and associational privacy - The protection of criminal law against household cruelty cannot depend on whether a woman has formally solemnized her union – iv. Distinction between Civil Protection (DV Act) and Criminal Remedy (Section 498A IPC) - Civil protection under the Protection of Women from Domestic Violence Act, 2005 (DV Act) is insufficient by itself, as civil/monetary consequences cannot substitute for the deterrent effect of criminal law. *[Paras 12-23].*

For Petitioner(s): Mr. Anand Sanjay M Nuli, Sr. Adv. Mr. Ashritsai Torgal, Adv. Mr. Shiva Swaroop, Adv. M/S. Nuli & Nuli, AOR

For Respondent(s): Mr. Naveen Sharma, AOR Mrs. Swati Bhushan Sharma, Adv. Mr. S.K. Sharma, Adv. Ms. Payal Gola, Adv. Ms. Hetu Arora Sethi, AOR Ms. Lalit Mohini Bhat, Adv. Mr. Siddarth Agarwal, Adv. Mr. Rahul Jain, Adv. Ms. Kanak Bathwal, Adv. Mr. Sanidhya Kumar, Adv. Mr. Brijendra Chahar, A.S.G. Mr. Gurmeet Singh Makker, AOR Mr. B K Satija, Adv. Mrs. Seema Bengani, Adv. Mrs. Rajeshwari Shankar, Adv. Mr. Raman Yadav, Adv. Mrs. Aarushi Singh, Adv. Mr. Brijendra Chahar, A.S.G. Mr. Gurmeet Singh Makker, AOR Mr. B K Satija, Adv. Mrs. Seema Bengani, Adv. Mrs. Rajeshwari Shankar, Adv. Mr. Raman Yadav, Adv. Mrs. Aarushi Singh, Adv. Dr. N. Visakamurthy, AOR Mr. Himanshu Jain, Adv. Ms. Kumari Arti, Adv. Mr. Surya Nath Pandy, AOR

For Amicus Curaie: Ms. Nina R. Nariman, Adv. (A.C.) Mr. Svarit Uniyal Mishra, Adv. Ms. Paduja Mishra, Adv.

J U D G M E N T

SANJAY KAROL, J.

For ease of reference, the judgment is divided as follows:

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1. Leave Granted.

2. These appeals present a pertinent question as to whether a man who is in a live-in relationship can be prosecuted under Section 498A of the Indian Penal Code, 1860[1]. This question arises at the instance of the appellant, Dr. Lokesh B.H., whose petition under Section 482 of the Code of Criminal Procedure, 1973[2] to quash the proceedings initiated by respondent no.2, (Smt. Theertha) being CC No. 28129 of 2023 and CC No. 630 of 2019 was rejected by the High Court of Karnataka at Bengaluru, in terms of common judgment and order dated 18th November, 2025, in Criminal Petition Nos. 8134 of 2024 and 9412 of 2021.

PREVIOUS PROCEEDINGS

3. The allegations are that the accused-appellant and respondent no. 2 were married as per Hindu customs and rituals on 17th October 2010 and since then were residing in Bengaluru. Come 2016, however, the marriage of the parties hit rocky waters leading up to the present appeal. A perusal of the record reveals that the dispute *inter partes* led to the filing of two complaints by respondent no.2, being Crime No. 383 of 2016 and Crime No. 450 of 2016. The former culminated in a charge-sheet[3] being filed before the III Additional Civil Judge (Junior Division) and JMFC, Shivamogga District, under Section 498A IPC. The latter resulted in charge-sheet[4] under Sections 498A, 504, 506, 307,494 and 149 of the IPC, along with Sections 3 and 4 of the Dowry Prohibition Act, 1961 [5] before the XXIV Additional Chief Metropolitan Magistrate, Bengaluru.

4. To begin with, the difference between the parties rests at a fundamental point, whether or not they were married. The accused-appellant contends that they were not married at all and as such no question arises regarding the application of Section 498A. Respondent No. 2, on the other hand, submits that they had been in a valid subsisting marriage and, therefore, all the Sections in which the appellant has been charged are actually maintainable. The High Court rejected the contentions of the appellant that a valid marriage is a *sine qua non* for the application of Section 498A IPC, as an unduly technical construction of the provision that is removed from the purpose and intent thereof. It was observed that the appellant had suppressed the factum of his first marriage, and that after

[1] IPC
[2] CrPC
[3] CC No. 630 of 2019
[4] CC No. 28129 of 2023
[5] DPA

marrying respondent no.2, presented himself as her husband. The relevant extract of the High Court's reasoning is as under:

"13.9. The term "husband" in Section 498A must be given a purposive and expansive construction, and the protection afforded by the provision cannot be denied merely on the technical ground of a void marriage. Where a man induces a woman to believe that she is lawfully married to him, and thereafter subjects her to cruelty, such a man cannot be permitted to evade criminal responsibility on the plea that no valid marriage existed in law.

13.10. The facts, as they stand, clearly show that the Petitioner and Respondent No.2 lived together in a relationship having all the trappings of a marital union. They cohabited, represented themselves as husband and wife, and performed domestic and social obligations typically associated with marriage. The relationship thus falls squarely within what has been recognised in recent times as a"relationship in the nature of marriage", or colloquially known as a "Live-In" relationship, attracting the protective umbrella of Section 498A, provided the factual allegations satisfy the elements of "cruelty" as defined in the explanation to the section.

…

13.14. In the result, I hold that the expression "husband" in Section 498A IPC is not confined to a man in a legally valid marriage, but extends to one who enters into a marital relationship which is void or voidable, as also to a live-in relationship which bears the attributes of marriage, so long as the essential ingredients of cruelty as defined in the explanation to the section are satisfied."

(emphasis supplied)

SUBMISSIONS OF THE LEARNED COUNSEL

5. Mr. Anand Sanjay M. Nuli, learned senior counsel, appeared for the appellant, Mr. Brijender Chahar, learned Additional Solicitor General, appeared for the State of Karnataka. Ms. Hetu Arora Sethi, appeared for respondent no.2. Ms. Aishwarya Bhati, learned Additional Solicitor General, and Ms. Nina R Nariman, learned counsel, assisted the Court as *amicus curiae.*

5.1 Mr. Nuli, submits that Section 498A of IPC, being a penal provision, has to be construed strictly to include only a *husband* i.e., a man in a valid and lawful marriage – not a void one. Awarding such an interpretation to the Section does not render the woman remedy-less, as a number of other provisions of the IPC and the Protection of Women from Domestic Violence Act, 2005 [6] would apply. In furtherance of the submission, reliance is placed on ***Shivcharan Lal Verma vs. State of Madhya Pradesh***[7] where the Court had set aside a conviction under Section 498A since the marriage in question was null and void; in ***U. Suvetha vs. State***[8] it was observed that for a person to be included within the term "*husband*", he would have to have contracted a valid marriage and then subjected the wife to cruelty; paragraph 7 thereof, culled out the ingredients of the offence and one of them is that the woman must be married; in ***Aluri Venkata Ramana vs. Aluri Thirupathi Rao***[9] - herein, the objective of the Section was discussed as being the protection for married women from cruelty at the hands of their husbands and in-laws. This was held to be inclusive of acts of harassment or coercion of the woman or her family into not only fulfilling demands for property or valuable security, including dowry, but otherwise also. In other words, it served a broader objective to safeguard such women.

5.2 The Union of India supported the case of the appellant. It was submitted that the parliamentary debates regarding the DV Act specifically recorded that prior to this Act, all

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[6] DV Act
[7] (2007) 15 SCC 369
[8] (2009) 6 SCC 757
[9] 2024 SCC Online 5473

other remedies available to women, including Section 498A IPC, specifically cater to married women. Further, that under the variety of legislations, both religiously specific and secular laws governing marriage, the recognition for marriage is between a biological male and a biological female. Living together for however long does not constitute marriage within the understanding of the statutory regime. Reference is made to ***P. Sivakumar vs. State represented by DSP***[10]; ***Noor Jahan vs. State***[11]; ***D Velusamy vs. D. Patchaiammal***[12]; ***U. Suvetha supra***; ***K.V. Prakash Babu vs . State of Karnataka***[13]; ***Prathiba Tyagi vs. Kamlesh Devi***[14]. Further, with reference to ***Indra Sarma vs. VKV Sarma***[15]; ***Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav***[16]; ***Savitaben Somabhai Bhatiya vs. State of Gujarat***[17]***; Badshah vs. Urmila Badshah Godse***[18]. The meaning of the word "*wife*" has been expounded to say that all live-in relationships are not relationships in the nature of *marriage* and the recognition of such relationships within the meaning of the DV Act were for civil remedial purposes; a second marriage which is obviously *void* does not confer status of *wife* on the second woman, even under Section 125 Cr.PC. "*wife*" means a legally wedded wife. If the law suffers from any inadequacy, the same is only within the scope of the Parliament to remedy.

5.3 Ms. Hetu Arora Sethi, submits that the word "*husband*" has to be given a purposive construction, and the Section must be applied also to void/voidable marriages. In essence, the reasoning of the High Court is adopted. Relying on ***Reema Aggarwal vs. Anupam***[19] and ***A.Subash Babu vs. State of A.P***.[20], it is submitted that Section 498A would be maintainable in a case where the second wife is not legally wedded but has been induced into a second marriage and subjected to cruelty. If the appellants' submission is accepted, it would amount to a wrongdoer taking advantage of his own wrong. At the stage of quashing when a *prima facie* case of cruelty is made out, such proceedings should not be interfered with.

5.4 The State of Karnataka supports the position of respondent no.2 and prays for dismissal of the appeal.

5.5 Ms. Nariman, by way of detailed submissions, has supported the application of Section 498A to *live-inrelationships* that qualify as "*relationships in the nature of marriage"*. In doing so, she has vehemently argued for purposive interpretation of legislation carrying socially reformative objectives. (See***: Koppisettti Subbharao vs. State of Andhra Pradesh***[21]; ***Chief Justice of A.P. vs. L.V.A. Dixitulu***[22]; ***Kehar Singh vs. State (Delhi Admn.)***[23]; ***Badshah supra***; ***Rupali Devi vs. State of Uttar Pradesh***[24]***; X vs. State (NCT of Delhi***)[25]. Further, the interpretation of Section 498A of IPC must be in accordance with Articles 14, 15(3) and 21 of the Constitution of India. In ***Hiral P. Harsora & Ors. vs.***

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[10] Cr. Appeal No. 1404 of 2023 of the Supreme Court of India
[11] (2008) 11 SCC 55
[12] (2010) 10 SCC 469
[13] (2017) 11 SCC 176
[14] (2022) 8 SCC 90
[15] (2013) 15 SCC 755
[16] (1988) 1 SCC 530
[17] (2005) 3 SCC 636
[18] (2014) 1 SCC 188
[19] (2004) 3 SCC 199
[20] (2011) 7 SCC 616
[21] (2009) 12 SCC 331
[22] (1979) 2 SCC 34
[23] (1988) 3 SCC 609
[24] (2019) 5 SCC 384
[25] (2023) 9 SCC 433

Kusum Narotmdas Harsora[26] Section 2(Q) of the DV Act, which restricted the meaning of the word "*relative*" to an adult male, was struck down as the distinction between a male and a female relative did not bear any rational nexus to the objective of the DV Act. Similarly, it is argued that a male "*in the nature of the husband*" cannot be excluded from the word "*husband*" within the Section, for doing so shall not be a reasonable classification. ***K.S. Puttaswamy vs. Union of India*** [27] recognized '*privacy*' as an intrinsic facet of Article 21, which includes the ability of an individual to make choices that lie at the core of their personality. This, it is argued, would include the right to marry or not; as also the choice to enter into relationships in the nature of marriage. By adopting a restrictive interpretation of the word "*husband*", the effect would be that perpetrators of domestic violence would fall through the cracks. Reliance is placed on observations in ***Reema Aggarwal supra***, more particularly para 11 and 18 thereof, wherein it has been observed that strict interpretation of the term "*husband*" and "*wife*" is warranted in cases of civil rights, Right to Property etc., but a liberal approach cannot be questioned against its application if the intent is curbing a social evil. ***Reema Aggarwal supra*** has been affirmed by a three-Judge Bench - ***Rajinder Singh vs. State of Punjab***[28]. It is submitted that reading of all these judgments, including ***Shiv Charan Lal Verma supra,*** would reveal that Section 498A will not apply in a case where a woman knowingly enters into a relationship with a married man. However, if the woman was not aware of the previous relationship and her relationship with the said married man carries the trappings of a marriage, then the same would apply. In connection with Section 304B, ***Rajinder Singh supra*** is once again referred to and the same has been directed to be construed liberally in view of its socially beneficent objective. The interpretation given by this Court to the phrase "*relationship in the nature of the marriage*" as under the DV Act is instructive in the present case for interpreting the word "*husband*". In the context of Section 125 also, it is submitted that although initially a restrictive view was taken, the same has been subsequently whittled down- See: ***Kamala vs. M R Mohan Kumar***[29].

RELEVANT PROVISIONS

The Indian Penal Code, 1860

304B. Dowry death.— (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.— For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

[26] (2016) 10 SCC 165
[27] (2017)10 SCC 1
[28] (2015) 6 SCC 477
[29] (2019) 11 SCC 491

Explanation.— For the purpose of this section, "cruelty" means— (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

(emphasis supplied)

Cr.P.C.

125. Order for maintenance of wives, children and parents.- (1) If any person having sufficient means neglects or refuses to maintain –

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury, unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct :

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person

Explanation. - For the purposes of this Chapter, -

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority,

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.- If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(emphasis supplied)

… … …

BNS (Bharatiya Nyaya Sanhita)

Section 85 – Husband or relative of husband of a woman subjecting her to cruelty.

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(emphasis supplied)

Bharatiya Nagarik Suraksha Sanhita, 2023

Order for maintenance of wives, children and parents.

144. (1) If any person having sufficient means neglects or refuses to maintain-

(a) his wife, unable to maintain herself; or

(b) his legitimate or illegitimate child, whether married or not, unable to maintain itself; or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself; or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.- For the purposes of this Chapter, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.- If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

OUR CONSIDERATION

6. What we are now required to consider in the light of the aforenoted submissions is as to whether Section 498A IPC can be given a construction so as to include the man in a *"live-in relationship".* It is quite clear that the word used in the Section is "*husband*". As already observed, Mr. Nuli, wants the word to be strictly interpreted, and the Union of India agrees with him. The respondent and Ms. Nariman, say that the word should be given a purposive interpretation. Let us then understand these two canons of statutory interpretation.

STRICT INTERPRETATION OF PENAL STATUTES

(a) A Constitution Bench in ***Commr. of Customs vs. Dilip Kumar & Co.***[30]**,** which was to determine the rule of interpretation to be applied in interpreting a provision/notification for tax exemption, particularly with respect to the entitlement of the assessee and the rate of the tax to be applied, discussed the rule of strict interpretation, also referring to earlier directions in the context of penal statutes, as follows:

[30] (2018) 9 SCC 1

"20. It is well accepted that a statute must be construed according to the intention of the legislature and the courts should act upon the true intention of the legislation while applying law and while interpreting law. If a statutory provision is open to more than one meaning, the Court has to choose the interpretation which represents the intention of the legislature.

....

22. In Kanai Lal Sur v. Paramnidhi Sadhukhan [Kanai Lal Sur v. Paramnidhi Sadhukhan, AIR 1957 SC 907] , it was held that if the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

23. In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. [*Commr.* v. *Mathapathi Basavannewwa*, (1995) 6 SCC 355] Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.

24. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation. The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocents might become victims of discretionary decisionmaking...."

…

28. The decision of this Court in Punjab Land Development and Reclamation Corpn. Ltd. v. Labour Court [Punjab Land Development and Reclamation Corpn. Ltd. v. Labour Court, (1990) 3 SCC 682 : 1991 SCC (L&S) 71] , made the said distinction, and explained the literal rule: (SCC p. 715, para 67)

"67. The literal rules of construction require the wording of the Act to be construed according to its literal and grammatical meaning, whatever the result may be. Unless otherwise provided, the same word must normally be construed throughout the Act in the same sense, and in the case of old statutes regard must be had to its contemporary meaning if there has been no change with the passage of time."

That strict interpretation does not encompass strict literalism into its fold. It may be relevant to note that simply juxtaposing "strict interpretation" with "literal rule" would result in ignoring an important aspect that is "apparent legislative intent". We are alive to the fact that there may be overlapping in some cases between the aforesaid two rules. With certainty, we can observe that, "strict interpretation" does not encompass such literalism, which lead to absurdity and go against the legislative intent. As noted above, if literalism is at the far end of the spectrum, wherein it accepts no implications or inferences, then "strict interpretation" can be implied to accept some form of essential inferences which literal rule may not accept."

(emphasis supplied)

(b) Further, a Constitution Bench in ***Standard Chartered Bank vs. Directorate of Enforcement***[31]**,** while dealing with an issue under the Foreign Exchange Regulation Act, 1973, extensively discussed the rule of strict interpretation by **K.G. Balakrishnan, J.** as he then was observed:

"23. ... It is true that all penal statutes are to be strictly construed in the sense that the court must see that the thing charged as an offence is within the plain meaning of the words used and must not strain the words on any notion that there has been a slip that the thing is so clearly within the

[31] (2005) 4 SCC 530

mischief that it must have been intended to be included and would have been included if thought of. All penal provisions like all other statutes are to be fairly construed according to the legislative intent as expressed in the enactment. Here, the legislative intent to prosecute corporate bodies for the offence committed by them is clear and explicit and the statute never intended to exonerate them from being prosecuted. It is sheer violence to common sense that the legislature intended to punish the corporate bodies for minor and silly offences and extended immunity of prosecution to major and grave economic crimes.

24. The distinction between a strict construction and a more free one has disappeared in modern times and now mostly the question is "what is true construction of the statute?" A passage in *Craies on Statute Law*, 7th Edn. reads to the following effect:

"The distinction between a strict and a liberal construction has almost disappeared with regard to all classes of statutes, so that all statutes, whether penal or not, are now construed by substantially the same rules. 'All modern Acts are framed with regard to equitable as well as legal principles.' 'A hundred years ago,' said the court in *Lyons' case* [*Lyons* v. *Lyons*, 1858 Bell CC 38 : 169 ER 1158] , 'statutes were required to be perfectly precise and resort was not had to a reasonable construction of the Act, and thereby criminals were often allowed to escape. This is not the present mode of construing Acts of Parliament. They are construed now with reference to the true meaning and real intention of the legislature."

At p. 532 of the same book, observations of Sedgwick are quoted as under:

"The more correct version of the doctrine appears to be that statutes of this class are to be fairly construed and faithfully applied according to the intent of the legislature, without unwarrantable severity on the one hand or unjustifiable lenity on the other, in cases of doubt the courts inclining to mercy.""

D.M Dharmadhikari J in the same judgment said:

"36. The rule of interpretation requiring strict construction of penal statutes does not warrant a narrow and pedantic construction of a provision so as to leave loopholes for the offender to escape (see *Murlidhar Meghraj Loya* v. *State of Maharashtra* [(1976) 3 SCC 684 : 1976 SCC (Cri) 493]). A penal statute has to also be so construed as to avoid a lacuna and to suppress mischief and to advance a remedy in the light of the rule in *Heydon's case* [(1584) 3 Co Rep 7a : 76 ER 637] . A common-sense approach for solving a question of applicability of a penal statute is not ruled out by the rule of strict construction. (See *State of A.P.* v. *Bathu Prakasa Rao* [(1976) 3 SCC 301 : 1976 SCC (Cri) 395] and also *G.P. Singh on Principles of Statutory Interpretation*, 9th Edn., 2004, Chapter 11, Synopsis 3 at pp. 754 to 756)".

And, ***Arun Kumar J.*** concurring, observed:

"42. So far the principle regarding strict construction of penal statutes is concerned there can be no quarrel. However, we need not misapply the principle. This principle has developed only in the context of the provisions in statutes which lay down the elements of an offence and the persons who can be charged with it. If there is any ambiguity or doubt as to whether in a given case an offence is made out or not or about who can be an offender with respect to the given offence, the ambiguity is to be resolved in favour of the person charged. In *Maxwell on the Interpretation of Statutes*, 12th Edn., the rule is stated as under:

"*Strict construction of words setting out the elements of an offence*.—If there is any ambiguity in the words which set out the elements of an act or omission declared to be an offence, so that it is doubtful whether the act or omission in question in the case falls within the statutory words, the ambiguity will be resolved in favour of the person charged. This is, in practice, by far the most important instance of the strict construction of penal statutes."

... … …"

(emphasis supplied)

(c) In holding that the difference of amount in the cheque subject matter of Section 138, Negotiable Instrument Act, 1881 proceedings *vis-à-vis* the notice sent thereunder, would not be a mere typographical error and would in fact be an error in law, the judgment in ***Kaveri Plastics vs. Mahdoom Bawa Bahrudeen Noorul***[32]**,** discussed strict interpretation as follows:

"6. The interpretation of the words "said amount" in proviso (b) to section 138 of the Negotiable Instruments Act, as above is based on the principle of statutory interpretation that penal statute would always be construed and applied strictly. This court in *M. Narayanan Nambiar* v. *State of Kerala* [1962 SCC OnLine SC 85; 1963 Supp (2) SCR 724; AIR 1963 SC 1116.] , spoke on the rule of construction of a penal provision in its true perspective by quoting from the English decision in *Dyke* v. *Elliott* [[1872] LR 4 PC 184.] which was again referred to in a more recent decision of this court in *Balaji Traders* v. *State of U.P.* [2025 SCC OnLine SC 1314.] :

"A decision of the *Judicial Committee in Dyke* v. *Elliot* [[1872] LR 4 PC 184.] , (1) cited by the learned counsel as an aid for construction neatly states the principle and therefore may be extracted :

Lord justice James speaking (1) [1872] LR 4 PC 184, 191, for the Board observes at page 191 :

'No doubt all penal Statutes are to be construed strictly, that is to say, the court must see that the thing charged as an offence is within the plain meaning of the words used, and must not strain the words on any notion that there has been a slip, that there has been a casus omissus, that the thing is so clearly within the mischief that it must have been intended to be included if thought of. On the other hand, the person charged has a right to say that the thing charged although within the words, is not within the spirit of the enactment."

(emphasis supplied)

(d) Chief Justice Marshall in ***United States vs. Wiltberger***[33]**,** succinctly captured the rule under discussion as below**:**

"7. It is said, that notwithstanding this rule, the intention of the law maker must govern in the construction of penal, as well as other statutes. This is true. But this is not a new independent rule which subverts the old. It is a modification of the ancient maxim, and amounts to this, that though penal laws are to be construed strictly, they are not to be construed so strictly as to defeat the obvious intention of the legislature. The maxim is not to be so applied as to narrow the words of the statute to the exclusion of cases which those words, in their ordinary acceptation, or in that sense in which the legislature has obviously used them, would comprehend. The intention of the legislature is to be collected from the words they employ. Where there is no ambiguity in the words, there is no room for construction. The case must be a strong one indeed, which would justify a Court in departing from the plain meaning of words, especially in a penal act, in search of an intention which the words themselves did not suggest. To determine that a case is within the intention of a statute, its language must authorise us to say so. It would be dangerous, indeed, to carry the principle, that a case which is within the reason or mischief of a statute, is within its provisions, so far as to punish a crime not enumerated in the statute, because it is of equal atrocity, or of kindred character, with those which are enumerated. If this principle has ever been recognized in expounding criminal law, it has been in cases of considerable irritation, which it would be unsafe to consider as precedents forming a general rule for other cases."

(emphasis supplied)

(e) The principle that flows from reference to the above decisions is that though penal statutes are to be given strict construction, but however, in applying the same, it is necessary to 'seek the intention of its maker'. While doing so, it is to be kept in mind that the legislature cannot exhaustively consider all situations and circumstances where the statute may be required to be

[32] 2025 SCC OnLine SC 2019 (Two Judge Bench)
[33] 1820 SCC OnLine US SC 3

applied. It does not as such, countenance strict literalism, without paying any heed to the consequence. In fact, what we are required to consider is "what is true construction of the statute".

MISCHIEF RULE AND PURPOSIVE INTERPRETATION

(a) The rule of purposive interpretation requires the Court, while interpreting a provision, to attach that meaning to the provision which serves the purpose that the provision is designed to achieve, which the values, goals, interests and policies that the provision furthers. This is done through the language of the statute, its legislative purpose and the judicial discretion of the Court. The relevant para of ***Shailesh Dhairyawan vs. Mohan Balkrishna Lulla***[34] are extracted hereunder:

"**31.** …The principle of "*purposive interpretation*" or "*purposive construction*" is based on the understanding that the court is supposed to attach that meaning to the provisions which serve the "*purpose*" behind such a provision. The basic approach is to ascertain what is it designed to accomplish? To put it otherwise, by interpretative process the court is supposed to realise the goal that the legal text is designed to realise. As Aharon Barak puts it:

"Purposive interpretation is based on three components : language, purpose, and discretion. Language shapes the range of semantic possibilities within which the interpreter acts as a linguist. Once the interpreter defines the range, he or she chooses the legal meaning of the text from among the (express or implied) semantic possibilities. The semantic component thus sets the limits of interpretation by restricting the interpreter to a legal meaning that the text can bear in its (public or private) language." [Aharon Barak, *Purposive Interpretation in Law* (Princeton University Press, 2005).]

32. Of the aforesaid three components, namely, language, purpose and discretion "*of the court*", insofar as purposive component is concerned, this is the *ratio juris*, the purpose at the core of the text. This purpose is the values, goals, interests, policies and aims that the text is designed to actualise. It is the function that the text is designed to fulfil.

33. We may also emphasise that the statutory interpretation of a provision is never static but is always dynamic. Though the literal rule of interpretation, till some time ago, was treated as the "*golden rule*", it is now the doctrine of purposive interpretation which is predominant, particularly in those cases where literal interpretation may not serve the purpose or may lead to absurdity. If it brings about an end which is at variance with the purpose of statute, that cannot be countenanced. Not only legal process thinkers such as Hart and Sacks rejected intentionalism as a grand strategy for statutory interpretation, and in its place they offered purposivism, this principle is now widely applied by the courts not only in this country but in many other legal systems as well."

(b) In ***D. Vinod Shivappa vs. Nanda Belliappa***[35]**,** it is observed that the rule of purposive construction, which is also known as the mischief rule, traces its origin to ***Heydon's case*** of 1584. It postulates that the interpretation which remedies the gap and advances the remedy, must be adopted.

(c) The four aspects to be considered in applying the mischief rule as discussed in ***Heydon's case,*** by Lord Coke, were referred to by S.R. Das, Acting CJ, writing for the majority of four out of seven judges in ***Bengal Immunity Co. Ltd. v. State of Bihar***[36], in the following words:

"27. It is a sound rule of construction of a statute firmly established in England as far back as 1584 when *Heydon case* [*Heydon case*, (1584) 3 Co Rep 7a : 76 ER 637] was decided that : (ER p. 368)

"… for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law,) four things are to be discerned and considered—

[34] (2016) 3 SCC 619
[35] (2006) 6 SCC 456
[36] (1955) 1 SCC 763

1st. What was the common law before the making of the Act.

2nd. What was the mischief and defect for which the common law did not provide.

3rd. What remedy Parliament hath resolved and appointed to cure the disease of the commonwealth.

And, 4th. The true reason of the remedy; and then the office of all the Judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief, and *pro privato commodo*, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, *pro bona publico*."

(emphasis supplied)

(d) In the famous ***R.M.D. Chamarbaugwalla vs. Union of India***[37], the mischief rule/Heydon's rule was enumerated with reference to Lord Coke. The intent of those who made the law must be understood, and that is to be understood by taking into account all the relevant factors such as purpose of the legislation, history etc.

(e) A three-judge Bench in ***MSR Leathers vs. S. Palaniappan***[38]**,** observed:

"29. … Having said that, we must add that one of the salutary principles of interpretation of statutes is to adopt an interpretation which promotes and advances the object sought to be achieved by the legislation, in preference to an interpretation which defeats such object. This Court has in a long line of decisions recognised purposive interpretation as a sound principle for the courts to adopt while interpreting statutory provisions. We may only refer to the decision of this Court in *New India Sugar Mills Ltd.* v. *CST* [AIR 1963 SC 1207] , wherein this Court observed: (AIR p. 1213, para 8)

"*8.* … It is a recognised rule of interpretation of statutes that the expressions used therein should ordinarily be understood in a sense in which they best harmonise with the object of the statute, and which effectuate the object of the legislature. If an expression is susceptible of a narrow or technical meaning, as well as a popular meaning the court would be justified in assuming that the legislature used the expression in the sense which would carry out its object and reject that which renders the exercise of its power invalid."

32. To the same effect is the decision of this Court in S.P. Jain v. Krishna Mohan Gupta [(1987) 1 SCC 191] wherein this Court observed: (SCC p. 201, para 18)

"18. We are of the opinion that law should take [a] pragmatic view of the matter and respond to the purpose for which it was made and also take cognizance of the current capabilities of technology and lifestyle of the community. It is well settled that the purpose of law provides a good guide to the interpretation of the meaning of the Act. We agree with the views of Krishna Iyer, J. in Busching Schmitz (P) Ltd. case [Busching Schmitz (P) Ltd. v. P.T. Menghani, (1977) 2 SCC 835] that legislative futility is to be ruled out so long as interpretative possibility permits.""

(emphasis supplied)

(f) **In *RBI v. Peerless General Finance & Investment Co. Ltd.*[39]**, this Court observed:

"33. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases

[37] (1957) 1 SCC 650 (Constitution Bench)

[38] (2013) 1 SCC 177

[39] (1987) 1 SCC 424 (Two Judge Bench)

and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is by looking at the definition as a whole in the setting of the entire Act and by reference to what preceded the enactment and the reasonsfor it that the Court construed the expression "Prize Chit" in *Srinivasa* [(1980) 4 SCC 507 : (1981) 1 SCR 801 : 51 Com Cas 464] and we find no reason to depart from the Court's construction."

(emphasis supplied)

(g) Denning LJ in ***Seaford Court Estates Ltd. v. Asher***[40], with reference to purposive interpretation of statutes observed as under:

"The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give 'force and life' to the intention of the legislature. … A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases."

(emphasis supplied)

(h) ***Abhiram Singh v. C.D. Commachen***[41], was a seven-judge Bench constituted to interpret Section 123 of the Representation of the People Act 1951. ***Madan B. Lokur J***., for the majority, made the following observations regarding canons of interpretation qua

"Literal versus Purposive interpretation":-

36. The conflict between giving a literal interpretation or a purposive interpretation to a statute or a provision in a statute is perennial. It can be settled only if the draftsman gives a long-winded explanation in drafting the law but this would result in an awkward draft that might well turn out to be unintelligible. The interpreter has, therefore, to consider not only the text of the law but the context in which the law was enacted and the social context in which the law should be interpreted. This was articulated rather felicitously by Lord Bingham of Cornhill in *R. (Quintavalle)* v. *Secy. of State for Health* [*R. (Quintavalle)* v. *Secy. of State for Health*, 2003 UKHL 13 : (2003) 2 AC 687 : (2003) 2 WLR 692 (HL)] when it was said : (AC p. 695 C-H, paras 8-9)

"*8*. The basic task of the court is to ascertain and give effect to the true meaning of what Parliament has said in the enactment to be construed. But that is not to say that attention should be confined and a literal interpretation given to the particular provisions which give rise to difficulty. Such an approach not only encourages immense prolixity in drafting, since the draftsman will feel obliged to provide expressly for every contingency which may possibly arise. It may also (under the banner of loyalty to the will of Parliament) lead to the frustration of that will, because undue concentration on the minutiae of the enactment may lead the court to neglect the purpose which Parliament intended to achieve when it enacted the statute. Every statute other than a pure

[40] [1949] 2 All ER 155

[41] (2017) 2 SCC 629

consolidating statute is, after all, enacted to make some change, or address some problem, or remove some blemish, or effect some improvement in the national life. The court's task, within the permissible bounds of interpretation, is to give effect to Parliament's purpose. So the controversial provisions should be read in the context of the statute as a whole, and the statute as a whole should be read in the historical context of the situation which led to its enactment. ..."

…

38. In *Bennion on Statutory Interpretation* [6th Edn. (Indian Reprint) p. 847] it is said that:

"General judicial adoption of the term "purposive construction" is recent, but the concept is not new. Viscount Dilhorne, citing Coke, said that while *it is now fashionable to talk of a purposive construction of a statute the need for such a construction has been recognized since the seventeenth century*. [*Stock* v. *Frank Jones (Tipton) Ltd.*, (1978) 1 WLR 231 at p. 234] In fact the recognition goes considerable further back than that. The difficulties over statutory interpretation belong to the language, and there is unlikely to be anything very novel or recent about their solution … Little has changed over problems of verbal meaning since the Barons of the Exchequer arrived at their famous resolution in *Heydon case* [*Heydon Case*, (1584) 3 Co Rep 7a : 76 ER 637] . Legislation is still about remedying what is thought to be a defect in the law. Even the most "progressive" legislator, concerned to implement some wholly normal concept of social justice, would be constrained to admit that if the existing law accommodated the notion there would be no need to change it. No legal need that is …."

39. We see no reason to take a different view. Ordinarily, if a statute is well drafted and debated in Parliament there is little or no need to adopt any interpretation other than a literal interpretation of the statute. However, in a welfare State like ours, what is intended for the benefit of the people is not fully reflected in the text of a statute. In such legislations, a pragmatic view is required to be taken and the law interpreted purposefully and realistically so that the benefit reaches the masses. Of course, in statutes that have a penal consequence and affect the liberty of an individual or a statute that could impose a financial burden on a person, the rule of literal interpretation would still hold good.

(*emphasis supplied*)

(i) Text and context, both of the legislation and society, point to the purpose of the statute, is the conclusion of the above discussion.

CONCEPT, OBJECT, IMPORT AND MISUSE OF SECTION 498A IPC

7. Section 498A IPC was introduced through the Criminal Law (Second Amendment) Act, 1983[42]**,** the statement of objects and reasons of which, is as under:

"The increasing number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the working of the Dowry Prohibition Act, 1961. Cases of cruelty by the husband and relatives of the husband which culminate in suicide by, or murder of, the helpless woman concerned, constitute only a small fraction of the cases involving such cruelty. It is, therefore, proposed to amend the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by their in-laws.*"*

(emphasis supplied)

Regarding amendments in the IPC, it was observed as follows:

"2. The following are the changes which are proposed to be made:-

(i)The Indian Penal Code is proposed to be amended to make cruelty to a woman by her husband or any relative of her husband punishable with imprisonment for a term which may extend to three years and also with fine. Wilful conduct of such a nature by the husband or any relative of the husband as is likely to drive the woman to commit suicide or cause grave physical or mental injury

[42] Act No. 46 of 1983

to her, and harassment of a woman by her husband or by any relative of her husband with a view to coercing her or any of her relative to meet any unlawful demand for property would be punishable as cruelty. The offence will be cognizable if information relating to the commission of the offence is given to the officer in charge of a police station by the victim of the offence or a relative of the victim of the offence or in the absence of any such relative, by any public servant authorised in this behalf by the State Government. It is also being provided that no Court shall take cognizance of the offence except upon a police report or a complaint made by the victim of the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or with the leave of the Court by any other person related to her by blood, marriage or adoption, (vide clauses 2, 5 and 6 of the Bill)."

(emphasis supplied)

7.1 This Court in ***Reema Aggarwal vs. Anupam***[43], took the view that Section 498A had to be interpreted purposively. The Court asked the exact question which arises in this case. Can a person, be it a living male partner or his relatives be allowed to hide behind the smokescreen of the relationship between the parties not being a *valid marriage*, if they are meting out cruelty to the female partner? The relevant observations are as follows:

"**18.** ... Legislation enacted with some policy to curb and alleviate some public evil rampant in society and effectuate a definite public purpose or benefit positively requires to be interpreted with a certain element of realism too and not merely pedantically or hypertechnically. The obvious objective was to prevent harassment to a woman who enters into a marital relationship with a person and later on, becomes a victim of the greed for money. Can a person who enters into a marital arrangement be allowed to take shelter behind a smokescreen to contend that since there was no valid marriage, the question of dowry does not arise? Such legalistic niceties would destroy the purpose of the provisions. Such hairsplitting legalistic approach would encourage harassment to a woman over demand of money. The nomenclature "dowry" does not have any magic charm written over it. It is just a label given to demand of money in relation to marital relationship. The legislative intent is clear from the fact that it is not only the husband but also his relations who are covered by Section 498A. The legislature has taken care of children born from invalid marriages. ... It would be appropriate to construe the expression "husband" to cover a person who enters into marital relationship and under the colour of such proclaimed or feigned status of husband subjects the woman concerned to cruelty or coerces her in any manner or for any of the purposes enumerated in the relevant provisions — Sections 304B/498A, whatever be the legitimacy of the marriage itself for the limited purpose of Sections 498A and 304B IPC. Such an interpretation, known and recognized as purposive construction has to come into play in a case of this nature. The absence of a definition of "husband" to specifically include such persons who contract marriages ostensibly and cohabit with such woman, in the purported exercise of their role and status as "husband" is no ground to exclude them from the purview of Section 304-B or 498A IPC, viewed in the context of the very object and aim of the legislations introducing those provisions."

(emphasis supplied)

7.2 The observations in ***Reema Aggarwal supra*** were quoted with approval by a bench of three judges in ***Rajinder Singh vs. State of Punjab***[44]**.**

7.3 Coming to ***Shivcharan Lal Verma vs. State of M.P***.[45] we find that it is an order passed by a Bench of three judges. The case essentials involved Section 306, which is not relevant for our purposes, and the question of 498A was decided totally on the facts of the case, it does not postulate a binding precedent, more so when ***Reema Agarwal supra*** stands affirmed by a three-judge bench in ***Rajinder Singh supra***.

[43] (2004) 3 SCC 199
[44] (2015) 6 SCC 477
[45] (2007) 15 SCC 369 (Three-Judge Bench)

7.4 Still further, we notice that in ***U. Suvetha vs. State***[46], this Court observed as follows:

"7. Ingredients of Section 498A of the Penal Code are:

(a) The woman must be married;

(b) She must be subjected to cruelty or harassment; and

(c) Such cruelty or harassment must have been shown either by husband of the woman or by the relative of her husband.

…

9 [Ed.: Para 9 corrected vide Official Corrigendum No. F.3/Ed.B.J./69/2009 dated 29-6-2009.] The word

"cruelty" having been defined in terms of the aforesaid Explanation, no other meaning can be attributed thereto. Living with another woman may be an act of cruelty on the part of the husband for the purpose of judicial separation or dissolution of marriage but the same, in our opinion, would not attract the wrath of Section 498A of the Penal Code. <u>An offence in terms of the said provision is committed by the persons specified therein. They have to be the "husband" or his "relative". Either the husband of the woman or his relative must have subjected her to cruelty within the aforementioned provision.</u> If the appellant had not (*sic*) been instigating the husband of the first informant to torture her, as has been noticed by the High Court, the husband would be committing some offence punishable under the other provisions of the Penal Code and the appellant may be held guilty for abetment of commission of such an offence but not an offence under Section 498A of the Penal Code.

10. In the absence of any statutory definition, the term "relative" must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word "relative" would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption.

…

16. It is not necessary to go into the controversy as to whether Reema Aggarwal was correctly decided or not as we are not faced with such a situation here. <u>We would assume that the term "husband" would bring within its fold a person who is said to have contracted a marriage with another woman and subjected her to cruelty</u>."

(emphasis supplied)

The ingredients culled out in this judgment although literally apposite, must give way to a purposive interpretation, since the primary objective in a socially beneficent provision is to realise the objective thereof and insofar as the '*relative*' aspect is concerned, if the interpretation of the *amicus* is accepted, the same way "*husband*" is being interpreted as a live-in partner, the term *relative* will be expanded to mean '*relative of live-in partner*'. All other conditions discussed above would apply as it is.

8. The following table chronologically demonstrates the understanding of the word '*cruelty*' in the context of Section 498A; its objective; the meaning of the word 'relative' as it appears therein; and misuse of the Section as recognised by this Court:

Concept of Cruelty

a. **Shobha Rani v. Madhukar Reddi, (1988) 1 SCC 105** (2 Judge Bench) : This court recognised that by the introduction of 498A, a new dimension has been given to the concept of cruelty, which includes wilful conduct and harassment of the woman.

[46] (2009) 6 SCC 757

b. **Arvind Singh v. State of Bihar, (2001) 6 SCC 407** (2 Judge Bench) : "**25**...The word "cruelty" in common English acceptation denotes a state of conduct which is painful and distressing to another. The legislative intent thus is clear enough to indicate that in the event of there being a state of conduct by the husband to the wife or by any relative of the husband which can be attributed to be painful or distressing, the same would be within the meaning of the Section..."

c. **Gananath Pattnaik v. State of Orissa, (2002) 2 SCC 619** (2 Judge Bench) : "**7.** The concept of cruelty and its effect varies from individual to individual, also depending upon the social and economic status to which such person belongs. "Cruelty" for the purposes of constituting the offence under the aforesaid Section need not be physical. Even mental torture or abnormal behaviour may amount to cruelty and harassment in a given case."

d. **Manju Ram Kalita v. State of Assam, (2009) 13 SCC 330** (2 Judge Bench): "**21.** "Cruelty" for the purpose of Section 498A IPC is to be established in the context of Section 498A IPC as it may be different from other statutory provisions. It is to be determined/inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as "cruelty" to attract the provisions of Section 498A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."

e. **Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48** (2 Judge Bench) : **"23.** We are of the view that the mere fact that the husband has developed some intimacy with another, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to "cruelty", but it must be of such a nature as is likely to drive the spouse to commit suicide to fall within the Explanation to Section 498A IPC. Harassment, of course, need not be in the form of physical assault and even mental harassment also would come within the purview of Section 498A IPC. Mental cruelty, of course, varies from person to person, depending upon the intensity and the degree of endurance, some may meet with courage and some others suffer in silence, to some it may be unbearable and a weak person may think of ending one's life..."

f. **Jayedeepsinh Pravinsinh Chavda v. State of Gujarat, (2025) 2 SCC 116** (2 Judge Bench) :"**15**..."cruelty" simpliciter is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive her to commit suicide or with intention to coercing her or her relatives to meet unlawful demands."

Object of 498A

a. **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675** (2 Judge Bench): "**14.** There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Penal Code, 1860 was to prevent torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. <u>The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added.</u> There is every likelihood that nonexercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Penal Code, 1860."

b. **Janshruti v. Union of India, 2025 SCC OnLine SC 909** (2 Judge Bench)**: "5.** Section 498A of the Penal Code, 1860 was, in fact, introduced by the Legislature through the Criminal Law (Second Amendment) Act, 1983 (Act 46 of 1983), with effect from 25.12.1983. The enactment of this provision was prompted by the widespread and deeply entrenched exploitation of women through traditional practices such as the dowry system. The Legislature recognized the pressing need for a specific legal provision to address the grave suffering inflicted upon married women as a result of dowry-related offences and cruelty, which had become a pervasive social menace in Indian society.

6. Be that as it may, the Legislature, in its wisdom, has continued to retain this provision over the decades, presumably in recognition of the persistent and deep-rooted nature of the underlying social malaise. While it is true that instances of misuse have emerged over time— occasionally with the intent to harass families or extort money, such concerns by themselves, are rarely sufficient to warrant striking down a statutory provision or diluting its effect. This Court has consistently held, in a catena of decisions, that the mere possibility or occasional misuse of a legal provision does not render it constitutionally infirm, either procedurally or substantively. Even in the context of Section 498A, this Court has reiterated that while misuse must be guarded against, the provision cannot be trivialized or undermined merely because it has, in some instances, been invoked unscrupulously. However, this Court has also cautioned that it is not to be treated as a tool to prank assistance or as a means to 'cry wolf'.

7. In assessing the constitutionality of such penal provisions, it becomes imperative to strike a delicate balance. While it is acknowledged that certain individuals may face hardship due to the misuse of the provision, it is equally important to look beyond these instances and recognize that the provision serves a constitutionally sound objective. It is aimed at protecting a vulnerable Section of society that often requires legal support and institutional safeguards to shield them from systemic abuse and exploitation."

Misuse of 498A

a. **Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667** (2 Judge Bench) :

"32. <u>It is a matter of common experience that most of these complaints under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive</u>.....

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

....

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection."

b. **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273** (2 Judge Bench) : **"4.** There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics" published by the National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence under Section 498A IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under the Penal Code. It accounts for 4.5% of total crimes committed under different Sections of the Penal Code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498A IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal."

c. **Rinku Baheti v. Sandesh Sharda, (2025) 3 SCC 686** (2 Judge Bench): **"67.** The provisions in the criminal law are for the protection and empowerment of women but sometimes are used by certain women more for purposes that they are never meant for. In recent times, the invocation of Sections 498A, 376, 377, 506 IPC as a combined package in most of the complaints related to matrimonial disputes is a practice which has been condemned by this Court on several occasions. In certain cases, the wife and her family tend to use a criminal complaint with all the above serious offences as a platform for negotiation and as a mechanism and a tool to get the husband and his family to comply with their demands, which are mostly monetary in nature. Sometimes this is done in a fit of rage after a marital dispute, while at times it is a planned strategy in other cases. Unfortunately, it is not just the parties who are involved in this abuse of the process of law. They are understandably fuelled by the emotions of the situation. But other stakeholders also worsen the situation as they may often devise such crafty strategies for the women to adopt such arm-twisting tactics for their ulterior motives. Further, the police personnel are sometimes quick to jump into action in selective cases and arrest the husband or even their relatives including aged and bedridden parents and grandparents of the husband. The trial courts are hesitant in granting bail to the accused persons being swayed by the "gravity of the offences" mentioned in the FIR. The collective effect of this chain of events is often overlooked by the actual individual players involved therein, which is that even minor disputes between husband and wife tend to snowball into ugly prodigious battles of ego and reputation and washing dirty linen in public, eventually leading to the relationship turning sour to the extent that there remains no possibility of a reconciliation or cohabitation. The women need to be careful about the fact that these strict provisions of law in their hands are beneficial legislations for their welfare and not means to chastise, threaten, domineer or extort from their husbands."

d. **Dara Lakshmi Narayana v. State of Telangana, (2025) 3 SCC 735** (2 Judge Bench) : **"30.** The inclusion of Section 498A 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 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 scrutinised, 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 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."

e. **Achin Gupta v. State of Haryana, (2025) 3 SCC 756** (2 Judge Bench) : **"32.** Many times, the parents including the close relatives of the wife make a mountain out of a molehill. Instead of salvaging the situation and making all possible endeavours to save the marriage, their action either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about complete destruction of marriage on trivial issues. The first thing that comes in the mind of the wife, her parents and her relatives is the police, as if the police is the panacea of all evil. No sooner the matter reaches up to the police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance to each other's fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in the heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hypersensitive approach would prove to be disastrous for the very institution of the marriage….**”**

f. **Rajesh Chaddha v. State of U.P., 2025 SCC OnLine SC 1094** (2 Judge Bench) **:** “**13.** Notwithstanding the merits of the case, we are distressed with the manner, the offences under Section 498A IPC, and Sections 3 & 4 of the D.P. Act, 1961 are being maliciously roped in by Complainant wives, insofar as aged parents, distant relatives, married sisters living separately, are arrayed as accused, in matrimonial matters. This growing tendency to append every relative of the husband, casts serious doubt on the veracity of the allegations made by the Complainant wife or her family members, and vitiates the very objective of a protective legislation…”

Meaning of ‘Relative’

a. **U. Suvetha v. State, (2009) 6 SCC 757** (2 Judge Bench)**: “10.** In the absence of any statutory definition, the term “relative” must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word “relative” would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption.

......

18. By no stretch of imagination would a girlfriend or even a concubine in an etymological sense be a “relative”. The word “relative” brings within its purview a status. Such a status must be conferred either by blood or marriage or adoption. If no marriage has taken place, the question of one being relative of another would not arise.”

b. **State of Punjab v. Gurmit Singh, (2014) 9 SCC 632** (2 Judge Bench):

“**8.**..The expression “relative” has not been defined in IPC. The provision with which we are concerned is a penal provision which deserves strict construction. It is well settled that when the words of a statute are not defined, it has to be understood in their natural, ordinary or popular sense. For this purpose, it shall be permissible to refer to dictionaries to find out the general sense in which the word is understood in common parlance. In *Ramanatha Aiyar's Advanced Law Lexicon* (Vol. 4, 3rd Edn.), the word “relative” means any person related by blood, marriage or adoption. A large number of dictionaries give this word “relative”, in context, the same meaning.”

(emphasis supplied)

9. Keeping the judicial development of the Section in view, as captured above, we now deal with the appellant’s contention that Section 498A being a penal provision has to be interpreted strictly, confined only to a husband married to a woman in the traditional sense. This contention is rejected. The purpose of penalising cruelty by a husband and his relatives was to introduce a factor of deterrence against the reprehensible behaviour that was exhibited by such family members toward a married woman, which was not addressed by the existing laws at the time. The objective, quite obviously, was reformative, cloaked with punishment. Since the provision was aimed at solving a societal issue, it is this larger objective of securing equality for women, stepping away from the superiority of males that is an inheritance from bygone days, that has to inform the understanding in interpretation and implementation of the Section. Given this purpose, implementation necessarily has to be not literal/conservative or technical but instead informed and aware of the objective. So, while it is true that penal statutes have to receive strict construction, the light of that principle cannot dim the objective of one part of the statute. It has also to be understood that forty-three years ago, when this provision was introduced in 1983, there were only two laws dealing specifically with domestic cruelty. *One* being the general law of the IPC and the *other,* the Dowry Prohibition Act 1961. Hence, short of introducing entirely new legislation, this one Section, as an option, it appears, in the hands of the legislative branch was duly exercised. The interpretation given to this penal provision must be an interpretation which keeps in view the reformative objective, or else its mandate will be defeated. Having discussed the object, purpose and interpretive tools regarding Section 498A, we now move to the main question at hand i.e., "*live-in relationship"* and the application of the Section thereto.

RELATIONSHIP IN THE NATURE OF MARRIAGE: UNDERSTANDING THE CONCEPT

10. The general understanding of the term "*live-in relationship*" is that two individuals come together and live under the same roof, enjoying pooled resources and joint expenses, at least, insofar as general living is concerned, if not more. It may include physical aspect as well. Some dictionaries have attempted to define this arrangement: The tenth edition of the Concise Oxford English Dictionary terms '*live-in*' as living with another in a sexual relationship. Similarly, the word '*relationship*' is defined as an emotional and sexual association between two people; the state of being connected. The Collins[47] dictionary defines '*live-in*' in the context of a partner as '*someone who lives in the same house as the person they are having a sexual relationship with, but is not married to them*.' Similarly, the Cambridge[48] dictionary also defines it in the context of a partner as follows: '*A live-in sexual partner lives in someone's home but is not married to that person*'

11. This phrase, it appears, has not received judicial attention. What has engaged the Court previously is "*relationship in the nature of marriage*" as defined in the DV Act. Section 2(f) thereof is as follows:

"(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family"

This Court has in the following cases delineated upon this term:

11.1 ***D. Velusamy v. D. Patchaiammal***[49],

"19. Having noted the relevant provisions in the Protection of Women from Domestic Violence Act, 2005, we may point out that the expression "domestic relationship" includes not only the relationship of marriage but also a relationship "in the nature of marriage". The question, therefore, arises as to what is the meaning of the expression "a relationship in the nature of marriage". Unfortunately, this expression has not been defined in the Act. Since there is no direct decision of this Court on the interpretation of this expression we think it necessary to interpret it because a large number of cases will be coming up before the courts in our country on this point, and hence an authoritative decision is required.

20. In our opinion Parliament by the aforesaid Act has drawn a distinction between the relationship of marriage and a relationship in the nature of marriage, and has provided that in either case the person who enters into either relationship is entitled to the benefit of the Act.

[47] Collins English Dictionary (14th edn, HarperCollins Publishers 2023) sv 'live-in'.
[48] Cambridge Dictionary, sv 'live-in' (Cambridge University Press)
[49] (2010) 10 SCC 469 (Two-Judge Bench)

…

31. In our opinion a "relationship in the nature of marriage" is akin to a common law marriage. Common law marriages require that although not being formally married:

(a) *The couple must hold themselves out to society as being akin to spouses*.

(b) They must be of legal age to marry.

(c) They must be otherwise qualified to enter into a legal marriage, including being unmarried.

(d) They must have voluntarily cohabited and held themselves out to the world as being akin to spouses *for a significant period of time*.

(See "Common Law Marriage" in Wikipedia on Google.)

In our opinion a "relationship in the nature of marriage" under the 2005 Act must also fulfil the above requirements, and in addition the parties must have lived together in a "shared household" as defined in Section 2(*s*) of the Act. Merely spending weekends together or a one night stand would not make it a "domestic relationship".

32. In our opinion not all live-in relationships will amount to a relationship in the nature of marriage to get the benefit of the Act of 2005. To get such benefit the conditions mentioned by us above must be satisfied, and this has to be proved by evidence. If a man has a "keep" whom he maintains financially and uses mainly for sexual purpose and/or as a servant it would not, in our opinion, be a relationship in the nature of marriage."

(emphasis supplied)

11.2 This Court in ***Indra Sarma v. V.K.V. Sarma***[50], was confronted with a question whether 'live-in relationship' would be construed to be a relationship in the nature of marriage within the meaning of Section 2(f) of DV Act. It was held:

"53. Live-in relationship, as such, as already indicated, is a relationship which has not been socially accepted in India, unlike many other countries. In *Lata Singh* v. *State of U.P.* [(2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478] it was observed that a live-in relationship between two consenting adults of heterosexual sex does not amount to any offence even though it may be perceived as immoral. However, in order to provide a remedy in civil law for protection of women, from being victims of such relationship, and to prevent the occurrence of domestic violence in the society, first time in India, the DV Act has been enacted to cover the couple having relationship in the nature of marriage, persons related by consanguinity, marriages, etc. We have few other legislations also where reliefs have been provided to woman placed in certain vulnerable situations.

…

56. We may, on the basis of above discussion cull out some guidelines for testing under what circumstances, a live-in relationship will fall within the expression "relationship in the nature of marriage" under Section 2(*f*) of the DV Act. The guidelines, of course, are not exhaustive, but will definitely give some insight to such relationships:

56.1.*Duration of period of relationship*.—Section 2(*f*) of the DV Act has used the expression "at any point of time", which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation.

56.2.*Shared household*.—The expression has been defined under Section 2(*s*) of the DV Act and, hence, needs no further elaboration.

56.3.*Pooling of resources and financial arrangements*.—Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the

[50] (2013) 15 SCC 755

name of the woman, long-term investments in business, shares in separate and joint names, so as to have a long-standing relationship, may be a guiding factor.

56.4.*Domestic arrangements*.—Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or upkeeping the house, etc. is an indication of a relationship in the nature of marriage.

56.5.*Sexual relationship*.—Marriage-like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring, etc.

56.6.*Children*.—Having children is a strong indication of a relationship in the nature of marriage. The parties, therefore, intend to have a long-standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.

56.7.*Socialisation in public*.—Holding out to the public and socialising with friends, relations and others, as if they are husband and wife is a strong circumstance to hold the relationship is in the nature of marriage.

56.8.*Intention and conduct of the parties*.—

Common intention of the parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship.

…

61. We cannot, however, lose sight of the fact that inequities do exist in such relationships and on breaking down of such relationship, the woman invariably is the sufferer. The law of constructive trust developed as a means of recognising the contributions, both pecuniary and non-pecuniary, perhaps comes to their aid in such situations, which may remain as a recourse for such a woman who find herself unfairly disadvantaged. Unfortunately, there is no express statutory provision to regulate such types of live-in relationships upon termination or disruption since those relationships are not in the nature of marriage. We can also come across situations where the parties entering into live-in relationship and due to their joint efforts or otherwise acquiring properties, rearing children, etc. and disputes may also arise when one of the parties dies intestate.

…

68. We are, therefore, of the view that the appellant, having been fully aware of the fact that the respondent was a married person, could not have entered into a live-in relationship in the nature of marriage. All live-in relationships are not relationships in the nature of marriage. The appellant's and the respondent's relationship is, therefore, not a “relationship in the nature of marriage” because it has no inherent or essential characteristic of a marriage, but a relationship other than “in the nature of marriage” and the appellant's status is lower than the status of a wife and that relationship would not fall within the definition of “domestic relationship” under Section 2(*f*) of the DV Act. If we hold that the relationship between the appellant and the respondent is a relationship in the nature of a marriage, we will be doing an injustice to the legally wedded wife and children who opposed that relationship. Consequently, any act, omission or commission or conduct of the respondent in connection with that type of relationship, would not amount to “domestic violence” under Section 3 of the DV Act.”

(emphasis supplied)

12. The DV Act, which provides civil remedies and reliefs for domestic violence as defined in detail thereunder, applies to this kind of relationship. Although in colloquial terms, the two phrases may be used interchangeably, the law perceives a difference between them. As per the principles enunciated in the decisions referred to above, “*live-in relationship*” is a wider category and “*relationship in the nature of marriage*” is a subset thereunder, which though may have eight indicators, illustrative but not exhaustive.

For the purposes of the present judgment, it is clarified that when we use the term "*live-in relationship*", we use it in the context of a "*relationship in the nature of marriage".*

WHETHER PROTECTION UNDER THE DV ACT SUFFICES?

13. At this stage, we must appreciate one of the contentions of the Union of India, which is to the effect that "*relationship in the nature of marriage"* is covered by the DV Act, and as such there is no need to expand the meaning of the words contained under Section 498A. In order to do so, let us explore the scope of the DV Act.

13.1 Domestic violence is unfortunately not a situation so rare that an image does not form in one's mind as soon as those words are used. It is, in fact, still, even after so many years, a matter of general occurrence. It is recognised as a problem on a global scale and has even been termed a human rights issue by the Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995). General Recommendation No. 19: Violence against women[51] under the Convention on the Elimination of All Forms of Discrimination Against Women 1991 discusses traditional attitudes that fuel family violence and family violence itself as follows:

"11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender- based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms…

23. Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality."

At home, the position till date, is not better or different. The prevalence of this regrettable practice causes violence to the provisions of the Constitution under Articles 14, 15 and 21. The lawmakers recognised the scale of the problem and observed that there was no remedy within civil law to address the same, perhaps to whatever measure, have a new legislation in place. The objective of the DV Act was reiterated recently in an order passed by a Bench presided over by Nagarathna, J. in a writ petition titled ***We the women of India v. Union of India & Ors.***[52]***.*** It is an Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

13.2 Section 3 provides a comprehensive definition of the term '*domestic violence*' to include physical, sexual, verbal and emotional or economic abuse. It reads as under:

"**3. Definition of domestic violence**.—For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

[51] https://www.refworld.org/legal/resolution/cedaw/1992/96542?__cf_chl_f_tk=eI9s2xM5RyNZvqsYgfezY9SJiEPneU.vrk8RE7tgHkA-1782900608-1.0.1.1-q8D6ENhKKcU9UVEdSGxVbGwiO7h7ZAJHZhWFeU99u_0

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(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,— (i)"physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;

(iv) "economic abuse" includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration."

(emphasis supplied)

It would include any act, omission, commission or conduct by the '*respondent*' which was originally restricted to adult males but has, by virtue of ***Hiral P. Harsora vs. Kusum Narottamdas Harsora***[53], been expanded to include any person.

13.3 Dr. A.K. Sikri J., while answering the question whether an amendment can be allowed to a petition filed under the DV Act in ***Kunapareddy vs. Kunapareddy Swarna***

[53] (2016) 10 SCC 165

Kumari[54], categorically observed that this legislation is civil in nature. The relevant extract is as follows:

"**12.** In fact, the very purpose of enacting the DV Act was to provide for a remedy which is an amalgamation of civil rights of the complainant i.e. aggrieved person. Intention was to protect women against violence of any kind, especially that occurring within the family as the civil law does not address this phenomenon in its entirety. It is treated as an offence under Section 498A of the Penal Code, 1860. The purpose of enacting the law was to provide a remedy in the civil law for the protection of women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society. It is for this reason, that the scheme of the Act provides that in the first instance, the order that would be passed by the Magistrate, on a complaint by the aggrieved person, would be of a civil nature and if the said order is violated, it assumes the character of criminality. …

… … …

14. In the aforesaid scenario, merely because Section 28 of the DV Act provides for that the proceedings under some of the provisions including Sections 18 and 20 are essentially of civil nature. We may take some aid and assistance from the nature of the proceedings filed under Section 125 of the Code. Under the said provision as well, a woman and children can claim maintenance. At the same time these proceedings are treated essentially as of civil nature."

(emphasis supplied)

13.4 This proposition of the DV Act being a piece of civil legislation was reiterated in ***Prabha Tyagi vs. Kamlesh Devi***[55]

"**50.** In our view, the DV Act is a piece of civil code which is applicable to every woman in India irrespective of her religious affiliation and/or social background for a more effective protection of her rights guaranteed under the Constitution and in order to protect women victims of domestic violence occurring in a domestic relationship. Therefore, the expression "joint family" cannot mean as understood in Hindu Law. Thus, the expression "family members living together as a joint family", means the members living jointly as a family. In such an interpretation, even a girl child/children who is/are cared for as foster children also have a right to live in a shared household and are conferred with the right under sub-section (1) of Section 17 of the DV Act. When such a girl child or woman becomes an aggrieved person, the protection of sub-section (2) of Section 17 comes into play."

(emphasis supplied)

13.5 Chapter IV of the Act, titled "Procedure for obtaining Orders of Reliefs" details the procedure and other relevant aspects once a woman makes an application to the authority under this Act. Section 12 discusses the application to be made to the Magistrate concerned. Sections 17 to 22 provide for different kinds of orders that can be passed by the said Magistrate. Section 17 provides for the right of every woman in a domestic relationship to reside in the shared household and not be rendered homeless on account of violence. This right is irrespective of whether she has any ownership in the house. Section 20 provides for monetary relief to the aggrieved person on account of loss suffered due to domestic violence, which may include loss of earnings, medical expenses, maintenance for herself and children. Section 21 deals with custody orders and Section 22 with compensation orders. Section 23 talks about interim and *ex parte* orders and Section 25 provides for the duration and alteration. It must also be noted that Section 28 clearly directs that the provisions of the Code of Criminal Procedure, 1973 (Cr.PC) shall apply to all proceedings under the Act, unless otherwise provided. The aspect of penalties

[54] (2016) 11 SCC 774
[55] (2022) 8 SCC 90

is discussed in Section 31, which is housed in Chapter V. A breach of a protection order, or of an interim protection order, by the respondent, if violated, can lead to imprisonment for the violator to the extent of one year and a fine of Rs. 20,000/- or both. Such a violation is cognizable and non-bailable. A violation thereof can be established on the sole testimony of the aggrieved person. The said Section 31 reads as under:

"Penalty for breach of protection order by respondent

(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who has passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions."

14. The conclusion of the above discussion is that although the DV Act provides for a widely worded ambit of domestic violence which includes various forms within it, the overall nature of the legislation is to provide for a remedy under the civil law, save and except Section 31 which provides for penalty and imprisonment in the event that a protection order is violated. No other aspect thereof involves any penal punishment. As such, to say that the DV Act provides for adequate protection to women in '*relationships in the nature of marriage*' would be a misstatement of law. It need not be said that the import of civil and criminal law is different and the impact on the individual is also different. One has almost singularly civil and monetary consequences, whereas the other is backed by the force of criminal deterrence. Consequently, this submission must be rejected.

PROTECTION OF LAW DEPENDS ON A CHOICE?

15. On the face of it, this case presents a question of statutory interpretation as already framed above but, in our view, it also posits a constitutional question under Articles 14, 15 and 21 of the Constitution. The effect of the law as it stands, particularly the criminal law, is best explained by an illustration- *'A'* is a woman in love with a man called '*B*'. They have hitherto lived in their respective parental homes and, after obtaining the blessings of their parents, marry and embark on a new life together. It so happens that the family of '*B*' dislikes '*A*' and accordingly adopts a hostile attitude towards her, which includes daily taunts, deprivation of needs or sometimes even physical altercations. Finally, seeing no choice, she approaches the authorities and an FIR is registered against the family members of '*B*', one of the sections invoked is 498A. They can be tried and convicted. This would be in the literal reading of Section 498A.

Now let us change the situation.

Everything else, regarding the relationship of A and B, them living together under the same roof, mistreatment of A by the family of B, remains the same, except for the fact that '*A*' and '*B*' decide to start living together before they are married and the family of '*B*' then proceeds to misbehave as already illustrated above.

The question is what is the remedy in criminal law that specifically relates to the household in which they reside (which in the context of the DV Act is somewhat *akin* to '*shared household*'), that '*A*' can utilise in the second scenario. Before we answer, let us consider a third scenario, where '*B*' himself may be physically or mentally cruel towards '*A*'. Remedy?

In all cases, *A* and *B* chose each other and decided to live life together. The only difference is that in the first case they are married and in the other two they are not. Why should there be any difference in the protection that is given to a woman if she faces cruelty at the hands of the husband/partner or his family members? The law fairly well recognises the right and freedom of an individual to choose the person they want to be with as an inextricable part of dignity and personal liberty. The following are some cases where this right has been discussed in eloquent prose:

15.1 ***K.S. Puttaswamy v. Union of India***[56]

"118. Life is precious in itself. But life is worth living because of the freedoms which enable each individual to live life as it should be lived. The best decisions on how life should be lived are entrusted to the individual. They are continuously shaped by the social milieu in which individuals exist. The duty of the State is to safeguard the ability to take decisions — the autonomy of the individual — and not to dictate those decisions. "Life" within the meaning of Article 21 is not confined to the integrity of the physical body. The right comprehends one's being in its fullest sense. That which facilitates the fulfilment of life is as much within the protection of the guarantee of life.

119. To live is to live with dignity. The draftsmen of the Constitution defined their vision of the society in which constitutional values would be attained by emphasising, among other freedoms, liberty and dignity. So fundamental is dignity that it permeates the core of the rights guaranteed to the individual by Part III. Dignity is the core which unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence. Privacy with its attendant values assures dignity to the individual and it is only when life can be enjoyed with dignity can liberty be of true substance. Privacy ensures the fulfilment of dignity and is a core value which the protection of life and liberty is intended to achieve.

…

323. Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being."

(emphasis supplied)

15.2 ***Shafin Jahan v. Asokan K.M.***[57] :

"52. It is obligatory to state here that expression of choice in accord with law is acceptance of individual identity. Curtailment of that expression and the ultimate action emanating therefrom on the conceptual structuralism of obeisance to the societal will destroy the individualistic entity of a person. The social values and morals have their space but they are not above the constitutionally guaranteed freedom. The said freedom is both a constitutional and a human right. Deprivation of that freedom which is ingrained in choice on the plea of faith is impermissible. ... It has to be remembered that the realisation of a right is more important than the conferment of the right. …

[56] (2017) 10 SCC 1
[57] (2018) 16 SCC 368

53. Non-acceptance of her choice would simply mean creating discomfort to the constitutional right by a constitutional court which is meant to be the protector of fundamental rights. Such a situation cannot remotely be conceived. The duty of the court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. Sans lawful sanction, the centripodal value of liberty should allow an individual to write his/her script. The individual signature is the insignia of the concept."

(emphasis supplied)

16. It is clear from the aforesaid pronouncements that the right to choose one's partner is an intrinsic part of individual autonomy. The nine-judge Bench in ***Puttaswamy supra*** had, in para 250, discussed nine kinds of privacy. Choosing to live in a '*relationship in the nature of marriage*', in our view, attracts at least two kinds of privacy, - ***(i)*** spatial privacy; and ***(ii)*** associational privacy which are described respectively as follows:

"spatial privacy which is reflected in the privacy of a private space through which access of others can be restricted to the space; intimate relations and family life are an apt illustration of spatial privacy;

associational privacy which is reflected in the ability of the individual to choose who she wishes to interact with"

(emphasis supplied)

17. On the one hand, the law provides the freedom to an individual to choose but however, it discriminates based on the form the relationship it takes by protecting 'A' in the first scenario and not protecting her in the second or third scenario. The question that must be asked is, does this differentiation stand on firm ground in law, as it is applied to the present day? Let us examine this. What is essentially done here is to "create a class within a class". To illustrate, there can be the following classes: 'single woman', 'woman in relationship', 'divorced', 'widowed', 'woman in relationship in the nature of marriage', 'married woman', etc. All of these categories, which we may add, are only for the purpose of convenience and explanation, do have some or the other clear distinctive factors. The only category which, in our view, is strikingly similar, for the purpose of extending the benefit of 498A IPC, to another category are the last two. The distinction between those two is only that the couple followed some or the other ritual/ceremony to embark on married life or went before a court to that end. There is little difference otherwise. So, when a class is made, it is expected that there would be intelligible differentia informing the creation of these classes. What intelligible differentia is, is no longer *res integra.* And while acknowledging that reference to precedent on this point amounts to a "parade of the familiar", we still may, for the sake of completeness, do so.

Chandrasekhara Aiyar J. in his concurring opinion in a sevenjudge Bench in ***State of W.B. v. Anwar Ali Sarkar***[58] :

"**30.** The law on the subject has been well stated in a passage from *Willis on Constitutional Law* (1936 Edn. at p. 579) and an extract from the pronouncement of this Court in what is known as the *Prohibition case*, *State of Bombay* v. *F.N. Balsara* [*State of Bombay* v. *F.N. Balsara*, 1951 SCR 682 : 1951 SCC 860] , where my learned Brother Saiyid Fazl Ali, J. has distilled in the form of seven principles most of the useful observations of this Court in *Sholapur Mills case* (*Charanjit Lal Chowdhury* v. *Union of India* [*Charanjit Lal Chowdhury* v. *Union of India*, 1950 SCR 869 : 1950 SCC 833]). Willis says:

"The guaranty of the equal protection of the laws means the protection of equal laws. It forbids class legislation, but does not forbid classification which rests upon reasonable grounds of

[58] (1952) 1 SCC 1

distinction. It does not prohibit legislation, which is limited either in the objects to which it is directed or by the territory within which it is to operate. 'It merely requires that all persons subject to such legislation shall be treated alike under like circumstances and conditions both in the privileges conferred and in the liabilities imposed.' 'The inhibition of the amendment was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation.' It does not take from the States the power to classify either in the adoption of police laws, or tax laws, or eminent domain laws, but permits to them the exercise of a wide scope of discretion, and nullifies what they do only when it is without any reasonable basis. Mathematical nicety and perfect equality are not required. Similarity, not identity of treatment, is enough. If any state of facts can reasonably be conceived to sustain a classification, the existence of that state of facts must be assumed. One who assails a classification must carry the burden of showing that it does not rest upon any reasonable basis."

Y.V. Chandrachud J., (as he then was) in ***State of J&K v. Triloki Nath Khosa*** [59], speaking for a Constitution Bench, observed that '*Discrimination is the essence of classification and does violence to the constitutional guarantee of equality only if it rests on an unreasonable basis*.'

Indu Malhotra J. in (Constitution Bench**)** ***Joseph Shine v. Union of India***[60]**,** while dealing with the constitutionality of Section 497 IPC, made the following observations:

272. The constitutional validity of Section 497 has to be tested on the anvil of Article 14 of the Constitution. Any legislation which treats similarly situated persons unequally, or discriminates between persons on the basis of sex alone, is liable to be struck down as being violative of Articles 14 and 15 of the Constitution, which form the pillars against the vice of arbitrariness and discrimination. Article 14 forbids class legislation; however, it does not forbid reasonable classification. A reasonable classification is permissible if two conditions are satisfied:

(i) The classification is made on the basis of an "intelligible differentia" which distinguishes persons or things that are grouped together, and separates them from the rest of the group; and

(ii) The said intelligible differentia must have a rational nexus with the object sought to be achieved by the legal provision.

…

273.4. Section 497 fails to consider both men and women as equally autonomous individuals in society. In *Anuj Garg* v. *Hotel Assn. of India* [*Anuj Garg* v. *Hotel Assn. of India*, (2008) 3 SCC 1] , this Court held that : (SCC pp. 1112 & 13, paras 20 & 26)

"*20.* At the very outset we want to define the contours of the discussion which is going to ensue. Firstly, the issue floated by the State is very significant, nonetheless it does not fall in the same class as that of rights which it comes in conflict with, ontologically. Secondly, the issue at hand has no social spillovers. *The rights of women as individuals rest beyond doubts in this age*. If we consider (various strands of) feminist jurisprudence as also identity politics, it is clear that time has come that we take leave of the theme encapsulated under Section 30. And thirdly we will also focus our attention on the interplay of doctrines of self-determination and an individual's best interests.

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26. When a discrimination is sought to be made on the purported ground of classification, such classification must be founded on a rational criteria. The criteria which in absence of any constitutional provision and, it will bear repetition to state, *having regard to the societal conditions as they prevailed in early 20th century, may not be a rational criteria in the 21st century*. In the early 20th century, the hospitality sector was not open to women in general. In the last 60 years, women in India have gained entry in all spheres of public life. They have also been representing

[59] (1974) 1 SCC 19
[60] (2019) 3 SCC 39

people at grassroot democracy. They are now employed as drivers of heavy transport vehicles, conductors of service carriages, pilots, et. al."

(emphasis supplied)

When the objective of the Section 498A was to provide coverage to those cases where harassment by husband or in-laws through wilful conduct causing mental or physical injury or driving the woman to suicide, then to say that such harassment can only be caused when they are married and not before that, in our considered view, would be a case of over simplification. Whether or not the woman in question is married or not, in the present day, does not have a proximate link to the objective of the Section, which is to prevent cruelty in such household setting. It may have been the case four decades ago and as such the law was then, truly well intentioned, but law, by its very nature, is organic and responds to change in society in some cases and leads to change in society in other cases. The present case is of the former kind, where it is responding to the change. "*Live-in relationships*" are today, more or less, a reality -- primarily in urban areas (be it for whatever reason), where an increasingly large section of the population resides, and the law must adapt itself to serve those who choose this form.

18. Not a single person goes into a relationship knowing or anticipating that cruelty may be meted out to them. When a couple sets out on their journey, it is always, one presumes, with the best of intentions and to bring joyfulness of all forms. With the passage of time, however, some relationships may go down this troublesome path. The law must provide for the same. This distinction between "*married*" and "*live-in relationship in the nature of marriage*", in as much as it relates to the protection envisaged by Section 498A, has no rational nexus with the object of preventing domestic violence and is as such offensive to Article 14 of the Constitution of India.

HARMONISING WORDS AND INTENT

19. Once it is established that the distinction between *relationship in the nature of marriage* and *marriage,* in so far as protection against cruelty is concerned, does not satisfy Article 14, the next aspect is to harmonise the words of the section and its beneficial intent. We have already discussed earlier the approaches of literal interpretation and purposive interpretation. Although the conflict between these two approaches has been recognised as perennial, there is now a shift towards the latter. As put by *Lord Millett* 'we are all purposive constructionists now'[61]. For beneficial legislations intended to remedy a social evil, the Court's duty is to discern the intention of the legislature and advance the mischief rule to ensure the statute is not reduced to futility.

Now, applying the four factors of the purposive construction rule laid down by Heydon's case, (i) the law as it stood prior to the insertion of Section 498A IPC[62] did not envisage any protections for women in a domestic setup under criminal law. The only legislation that was present at the time (1961) was the DPA, which had limited application. Only when there was a demand or supply of dowry could the provision thereof be taken recourse to. This section, since it provided for protection against cruelty generally, had a much wider scope; (ii) Prior to insertion of this section, there was no comprehensive avenue in the law to seek redress either on the criminal side or civil side for cruelty in a domestic setup. With specific reference to dowry too, the unfortunate situation of a dowry death was also addressed subsequently by the insertion of Section 304 B in 1986; (iii) The remedy was Section 498A, explaining what constitutes cruelty and applying it specifically to married

[61] Construing Statutes, (1999)2 Statute Law Review 107
[62] 26th December, 1983

woman, her husband and his relatives; (iv) The true reason for the remedy was to give shelter of the law to those unwelcome situations that did not fall within the smaller scope of the dowry law recognising that domestic cruelty takes various forms that may not be directly linked to dowry. The intent is, therefore, to stop the cruelty and advance the remedy.

As already observed, the law is a living organism, and its life comes more so from experience, and not merely logic. Any experience that is undergone by humans particularly has its own way of changing them. The law that we use today is undoubtedly a human endeavour, and so experiences change it too. In the earlier days, marriage was perceived as the only method by which two individuals could live together for a life time, and doing so without that was considered taboo. Marriage was considered to be sacrosanct; which undoubtedly is a changing phenomenon. Living together, prior to marriage, is not unheard of or unacceptable anymore. In the same way, that same sex relations, once criminalised and deemed to be a mental illness, have now been decriminalised and recognised as naturally occurring. This is the evolution of societal standards. In the words of Oliver Wendell Holmes J., this is the law 'adopting new principles from life at one end' and 'sloughing off' old ones at the other end.[63]

In this context, the words of ***H.R. Khanna J.*** in his concurring opinion in a seven-judge Bench in ***Maganlal Chhaganlal (P) Ltd. v. Municipal Corpn. of Greater Bombay***[64], are befitting:

"22…. As in life so in law things are not static. Fresh vistas and horizons may reveal themselves as a result of the impact of new ideas and developments in different fields of life. Law, if it has to satisfy human needs and to meet the problems of life, must adapt itself to cope with new situations. Nobody is so gifted with foresight that he can divine all possible human events in advance and prescribe proper rules for each of them. There are, however, certain verities which are of the essence of the rule of law and no law can afford to do away with them. At the same time it has to be recognized that there is a continuing process of the growth of law and one can retard it only at the risk of alienating law from life itself. There should not be much hesitation to abandon an untenable position when the rule to be discarded was in its origin the product of institutions or conditions which have gained a new significance or development with the progress of years. <u>It sometimes happens that the rule of law which grew up in remote generations may in the fullness of experience be found to serve another generation badly.</u> The Court cannot allow itself <u>to be tied down by and become captive of a view which in the light of the subsequent experience has been found to be patently erroneous, manifestly unreasonable or to cause hardship or to result in plain iniquity or public inconvenience.</u> The Court has to keep the balance <u>between the need of certainty and continuity and the desirability of growth and development of law. It can neither by judicial pronouncements allow law to petrify into fossilised rigidity nor can it allow revolutionary iconoclasm to sweep away established principles</u>. On the one hand the need is to ensure that judicial inventiveness shall not be desiccated or stunted, on the other it is essential to curb the temptation to lay down new and novel principles in substitution of well established principles in the ordinary run of cases and the readiness to canonise the new principles too quickly before their saintliness has been affirmed by the passage of time…"

(emphasis supplied)

RS Pathak CJ in ***Union of India v. Raghubir Singh***[65]***,*** in a Constitution Bench made pertinent observations regarding law and social change. They are extracted as below for reference:

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[63] As quoted by RS Pathak CJ in Union of India v. Raghubir Singh 1989 2 SCC 754

[64] (1974) 2 SCC 402

[65] (1989) 2 SCC 754

"11. Legal compulsions cannot be limited by existing legal propositions, because there will always be, beyond the frontiers of the existing law, new areas inviting judicial scrutiny and judicial choice-making which could well affect the validity of existing legal dogma. The search for solutions responsive to a changed social era involves a search not only among competing propositions of law, or competing versions of a legal proposition, or the modalities of an indeterminacy such as "fairness" or "reasonableness", but also among propositions from outside the ruling law, corresponding to the empirical knowledge or accepted values of present time and place, relevant to the dispensing of justice within the new parameters.

12. The universe of problems presented for judicial choicemaking at the growing points of the law is an expanding universe. The areas brought under control by the accumulation of past judicial choice may be large. Yet the areas newly presented for still further choice, because of changing social, economic and technological conditions are far from inconsiderable. It has also to be remembered, that many occasions for new options arise by the mere fact that no generation looks out on the world from quite the same vantage-point as its predecessor, nor for that matter with the same perception. <u>A different vantage-point or a different quality of perception often reveals the need for choice-making where formerly no alternatives, and no problems at all, were perceived.</u> The extensiveness of the areas for judicial choice at a particular time is a function not only of the accumulation of past decisions, not only of changes in the environment, but also of new insights and perspectives both on old problems and on the new problems thrown up by changes entering the cultural and social heritage.

13. Not infrequently, in the nature of things there is a gravity-heavy inclination to follow the groove set by precedential law. Yet a sensitive judicial conscience often persuades the mind to search for a different set of norms more responsive to the changed social context. The dilemma before the Judge poses the task of finding a new equilibrium prompted not seldom by the desire to reconcile opposing mobilities. The competing goals, according to Dean Roscoe Pound, invest the Judge with the responsibility "<u>of proving to mankind that the law was something fixed and settled, whose authority was beyond question, while at the same time enabling it to make constant readjustments and occasional radical changes under the pressure of infinite and variable</u> human desires". [Roscoe Pound : *An Introduction to the Philosophy of Law*, p. 19] The reconciliation suggested by Lord Reid in *The Judge as Law Maker* [Pp. 25-6] lies in keeping both objectives in view, "that the law shall be certain, and that it shall be just and shall move with the times".

(emphasis supplied)

In ***Badshah supra,*** in the context of interpersonal relationships, the following observations were made, which were subsequently approved by a Bench of seven judges in ***Abhiram Singh supra:***

"16. The law regulates relationships between people. It prescribes patterns of behaviour. It reflects the values of society. The role of the court is to understand the purpose of law in society and to help the law achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. <u>In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs</u>. In both constitutional and statutory interpretation, the court is supposed to exercise discretion in determining the proper relationship between the subjective and objective purposes of the law.***"***

(emphasis supplied)

In the very same seven-judge Bench judgment, reference was made to some noted scholars on the fluid and not static nature of the law. That paragraph is reproduced below:

"Social context adjudication

44. Another facet of purposive interpretation of a statute is that of social context adjudication. This has been the subject-matter of consideration and encouragement by the Constitution Bench of this Court in Union of India v. Raghubir Singh [Union of India v. Raghubir Singh, (1989) 2 SCC 754].........

(emphasis supplied)

A little later in the decision it was said : (SCC pp. 767-68, para 13)

“13. Not infrequently, in the nature of things there is a gravity-heavy inclination to follow the groove set by precedential law. Yet a sensitive judicial conscience often persuades the mind to search for a different set of norms more responsive to the changed social context. The dilemma before the Judge poses the task of finding a new equilibrium prompted not seldom by the desire to reconcile opposing mobilities. The competing goals, according to Dean Roscoe Pound, invest the Judge with the responsibility ‘of proving to mankind that the law was something fixed and settled, whose authority was beyond question, while at the same time enabling it to make constant readjustments and occasional radical changes under the pressure of infinite and variable human desires’. [Roscoe Pound, An Introduction to the Philosophy of Law, p. 19] The reconciliation suggested by Lord Reid in The Judge as Law Maker [1972 The Journal of Public Teachers of Law 22 at pp. 25-26] lies in keeping both objectives in view, ‘that the law shall be certain, and that it shall be just and shall move with the times’.”

(emphasis supplied)

In the landmark judgment ***Navtej Singh Johar v. Union of India***[66] this Court pointed out our Constitution’s mandate of acknowledging the change to be inevitable. Regarding the role of the judiciary in such cases, it was observed as follows:

“97. Our Constitution fosters and strengthens the spirit of equality and envisions a society where every person enjoys equal rights which enable him/her to grow and realise his/her potential as an individual. This guarantee of recognition of individuality runs through the entire length and breadth of this dynamic instrument. The Constitution has been conceived of and designed in a manner which acknowledges the fact that “change is inevitable”. It is the duty of the courts to realise the constitutional vision of equal rights in consonance with the current demands and situations and not to read and interpret the same as per the standards of equality that existed decades ago. The judiciary cannot remain oblivious to the fact that the society is constantly evolving and many a variation may emerge with the changing times. There is a constant need to transform the constitutional idealism into reality by fostering respect for human rights, promoting inclusion of pluralism, bringing harmony, that is, unity amongst diversity, abandoning the idea of alienation or some unacceptable social notions built on medieval egos and establishing the cult of egalitarian liberalism founded on reasonable principles that can withstand scrutiny.

…

100. The Court, as the final arbiter of the Constitution, has to keep in view the necessities of the needy and the weaker sections. The role of the Court assumes further importance when the class or community whose rights are in question are those who have been the object of humiliation, discrimination, separation and violence by not only the State and the society at large but also at the hands of their very own family members. The development of law cannot be a mute spectator to the struggle for the realisation and attainment of the rights of such members of the society.” This societal change has been recognised by this Court on a few occasions. For instance:

a) ***S. Khushboo v. Kanniammal***[67] **:**

31. While it is true that the mainstream view in our society is that sexual contact should take place only between marital partners, there is no statutory offence that takes place when adults willingly engage in sexual relations outside the marital setting, with the exception of “adultery” as defined

[66] 2018 10 SCC 1

[67] (2010) 5 SCC 600 (Three Judge Bench)

under Section 497 IPC. At this juncture, we may refer to the decision given by this Court in *Lata Singh* v. *State of U.P.* [(2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478 : AIR 2006 SC 2522], wherein it was observed that a live-in relationship between two consenting adults of heterogenic sex does not amount to any offence (with the obvious exception of "adultery"), even though it may be perceived as immoral. A major girl is free to marry anyone she likes or "*live with anyone she likes*". ..".

Followed by a recent three-judge Bench in **X2 v. State (NCT of Delhi)[68],** wherein it was observed that the law must remain alive to the changes in family structure brought in by the evolution of standards of society.

b) ***D. Velusamy v. D. Patchaiammal[69]*** **:**

21. It seems to us that in the aforesaid Act of 2005 Parliament has taken notice of a new social phenomenon which has emerged in our country known as live-in relationship. This new relationship is still rare in our country, and is sometimes found in big urban cities in India, but it is very common in North America and Europe. It has been commented upon by this Court in *S. Khushboo* v. *Kanniammal* [(2010) 5 SCC 600 : (2010) 2 SCC (Cri) 1299] (vide para 31).

c) This Court in ***Ravish Singh Rana v. State of Uttarakhand[70]*****,** observed:

"15. Moreover, in a long drawn live-in relationship, occasions may arise where parties in that relationship express their desire or wish to formalize the same by a seal of marriage, but that expression of desire, or wish, by itself would not be indicative of relationship being a consequence of that expression of desire or wish. A decade or two earlier, live-in relationships might not have been common. But now more and more women are financially independent and have the capacity to take conscious decision of charting their life on their own terms. This financial freedom, *inter alia*, has led to proliferation of such live-in relationships. Therefore, when a matter of this nature comes to a court, it must not adopt a pedantic approach rather the Court may, based on the length of such relationship and conduct of the parties, presume implied consent of the parties to be in such a relationship regardless of their desire or a wish to convert it into a marital bond."

(emphasis supplied)

Adding force and life to the cure in accordance with the true intent and accounting for a social change as an aspect for adjudication, would then lead us to the conclusion that if a woman is in a domestic setup even prior to marriage, which obviously, to a certain extent in the urban areas is a reality today, the protection given to married woman should be given to them also. Cruelty, any which way, does not check at the door, whether the house it enters is that of a married woman or not. Once it enters, its propensity to destroy is aggravated.

20. It is held, therefore, that a woman in a "*relationship in the nature of marriage*" shall be protected under Section 498A, giving the word "*husband*" a purposive interpretation, keeping in view the reformative, corrective and socially beneficial intent of the Section.

RELEVANT SAFEGUARDS

21. We have already noted above instances of misuse of Section 498A IPC being recognised by this Court. Numerous times, this Court has observed that a well-intentioned provision has caused considerable hardship, since it is being misused and employed as a means of settling scores and ventilating grievances. Although we have extended its benefit to '*relationships in the nature of marriage*', the growing, worrisome trend of misuse troubles us.

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[68] (2023) 9 SCC 433
[69] (2010) 10 SCC 469
[70] (2025) SCC OnLine SC 1055

We also have to recognise that there may be certain relationships that may meet all the requirements to be a 'relationship in the nature of marriage' as listed, *albeit* non-exhaustively in ***Indra Sarma supra***, but yet the parties thereto may very clearly never possess the intent to take the relationship one step further into matrimony. So, in the said context, while not all live-inrelationships are 'relationships in the nature of marriage', all 'relationships in the nature of marriage' also do not 'mimic marriage'.

When the intent is absent, a question beckons as to why such relationship needs to be equated with marriage for the purposes of invoking penal provisions. In our view, it does not. Those relationships that are in the nature of marriage and also have the requisite intent to marry are the closest to marriage itself, and it is those relationships that shall be entitled to the protection of this Section. This specific requirement, in our view, is what will differentiate a 'relationship in the nature of marriage' as it is understood for the purposes of the DV Act, which inherently is a legislation of civil nature, *vis-à-vis* the provision that concerns us, which imputes criminal liability. Because of this, obviously, a higher standard of proof needs to be applied. The presence of the intent of the parties shall obviously lie upon the person alleging that the intent was present. In other words, the initial burden of proof would be on the female live-in-partner seeking protection of the law.

In view of the above discussion, the application of the section is restricted, keeping in view its penal nature and also a long list of adverse consequences which may accompany such a strict provision. Even with this limited application, the other protections that have been judicially developed against the misuse of this provision should apply to these cases also. This Court in ***Arnesh Kumar supra*** had put in place some safeguards. Relevant paragraphs thereof are as follows:

"6. Law Commissions, Police Commissions and this Court in a large number of judgments emphasised the need to maintain a balance between individual liberty and societal order while exercising the power of arrest. Police officers make arrest as they believe that they possess the power to do so. As the arrest curtails freedom, brings humiliation and casts scars forever, we feel differently. We believe that no arrest should be made only because the offence is nonbailable and cognizable and therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from the power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation. Despite this legal position, the legislature did not find any improvement. Numbers of arrest have not decreased. Ultimately, Parliament had to intervene and on the recommendation of the 177th Report of the Law Commission submitted in the year 2001, Section 41 of the Code of Criminal Procedure (for short "CrPC"), in the present form came to be enacted. It is interesting to note that such a recommendation was made by the Law Commission in its 152nd and 154th Report submitted as back in the year 1994. The value of the proportionality permeates the amendment relating to arrest.

11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(*b*)(*ii*); 11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention; 11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention; 11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court."

We may only underscore the need for strict compliance therewith in cases where recourse to the law is taken by a female in a 'live-in relationship in the nature of marriage'.

PRESENT FACTS

22. Let us apply the above conclusion in the present case. The proceedings that have made their way to us in these appeals were, in fact, under Section 482CrPC/528BNSS or, in other words, for quashing of criminal proceedings. The contours of the exercise of this power are established beyond question. Reference can be made to ***State of Haryana v. Bhajan Lal***[71]. Para 102 thereof clearly postulates when such a power can be exercised. The allegation in the FIR is that the appellant had suppressed the factum of his prior marriage, he, along with his family members, had harassed respondent no.2 for dowry and also caused physical injury to her, because of which she received burns on her leg. Whether or not this actually happened is a matter of trial. When the allegations are taken at face value, it cannot be said that they do not *prima facie* constitute an offence, not disclosing a cognizable offence. As such, it would not be appropriate for this Court to intervene and quash the proceedings initiated by respondent no.2.

CONCLUSION

23. (i) Section 498A is held to be applicable to "*live-in relationships*" that qualify as "*relationships in the nature of marriage*" with the intent to marry being established as an intrinsic part thereof;

(ii) The *"live-in relationships"* protected by Section 498A, it is stated for ample clarity, are those that are between two consenting adult individuals;

(iii) The proposition of law as laid down shall be limited to Section 498A IPC only, and this extended interpretation shall not affect any other provision;

(iv) The safeguards against arrest and other factors as laid down in ***Arnesh Kumar supra*** shall be strictly applied and no person in a relationship in the nature of marriage having been accused of committing cruelty against a woman, being either the live-in partner "in the nature of marriage" or his relative, shall be arrested without preliminary enquiries.

24. The conclusion that can be drawn in the present facts is as follows:

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[71] 1992 Supp (1) SCC 335

(i) This is not a fit case for the proceedings to be quashed. The Trial Court shall be at liberty to proceed in accordance with law.

(ii) The discussion made herein insofar as it relates to the facts of the case is limited only to the adjudication of the appeals against denial of quashing and is not a comment on the merits of the matter.

(iii) The appeals are disposed of in the aforesaid terms.

We place on record our appreciation for the assistance rendered by the learned counsel, including the learned *amicus curiae*.

Pending application(s), if any, shall stand disposed of.