Offenses Relating To Marriage

Chapter XX (section 493- 498), IPC, deals with offenses relating to marriage and Chapter XX-A, containing only one section (s 498A) dealing with cruelty to a woman by her husband or his relatives to coerce her and her parents to meet the material greed of dowry, was added to the IPC by the Criminal Law (Second Amendment) Act 1983.
This law, along with The Domestic Violence Act (Passed in 200,5), aims to provide substantial protection to female victims of cruelty and domestic violence

The following are the main offenses under this chapter:

1. Mock or invalid marriages (ss 493 and 496);
2. Bigamy (ss 494 and 495);
3. Adultery (s 497);
4. Criminal elopement (s 498);
5. Cruelty by husband or relatives of husband (s 498A)

1.Mock Marriage
Section 493 of IPC reads as follows:
Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—
Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE
Punishment—Imprisonment for 10 years and fine—Non-cognizable—Non-bailable— Triable by Magistrate of the first class—Non-compoundable.

Ingredients
The section contains two ingredients:—
(1) Deceit causing a false belief in the existence of a lawful marriage.
(2) Cohabitation or sexual intercourse with the person causing such belief.

Proof of marriage.—

Section 493 IPC, 1860 do not presuppose a marriage between the accused and the victim necessarily by following a ritual or marriage by customary ceremony. What has been clearly laid down and emphasised is that there should be an inducement of belief in the woman that she is lawfully married to the accused/ appellant and the inducement of belief of a lawful marriage cannot be interpreted so as to mean or infer that the marriage necessarily had to be in accordance with any custom or ritual or under the Special Marriage Act, 1954. If the evidence on record indicate inducement of a belief in any manner in the woman which cannot possibly be enlisted but from which it can reasonably be inferred by ordinary prudence that she is a lawfully married wife of the man accused of an offence under section 493 IPC, 1860 the same will have to be treated as sufficient material to bring home the guilt under section 493 IPC, 1860.

And section 496 of IPC reads as:
Marriage ceremony fraudulently gone through without lawful marriage.—
Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE
Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable— Triable by Magistrate of the first class—Non-compoundable.

It applies to cases in which a ceremony is gone through which would in no case constitute a marriage, and in which one of the parties is deceived by the other into the belief that it does constitute a marriage, or in which effect is sought to be given by the proceeding to some collateral fraudulent purpose. Where the ceremony gone through

does, but for the previous marriage, constitutes a valid marriage, and both parties are aware of the circumstances of the previous marriage, s. 494 applies.*(Rama Sona, (1873) Unrep Cr C 77.)*

Comment

The essential elements of both the sections i.e. 493 and 496, is that the accused should have practiced deception on the woman, as a consequence of which she is led to believe that she is lawfully married to him, though in reality she is not. In s 493, the word used is 'deceit' and in s 496, the words 'dishonestly' and 'fraudulent intention' have been used. Basically both the sections denote the fact that the woman is cheated by the man into believing that she is legally wedded to him, whereas the man is fully aware that the same is not true. The deceit and fraudulent intention should exist at the time of the marriage. (KAN Subrahmanyam v. J Ramalakshmi (1971) Mad LJ(Cr) 604.)
Thus mens rea is an essential element of an offence under this section. The two sections are

somewhat alike: the difference appears to be that under section.493, deception is requisite on the part of the man, and cohabitation or sexual intercourse consequent on such deception. The offence under section 496 requires no deception, cohabitation, or sexual intercourse as a sine qua non, but a dishonest or fraudulent abuse of the marriage ceremony. In the latter case the offence can be committed by a man or woman, in the former, only by a man.

2.Bigamy

Section 494 IPC reads as Marrying again during lifetime of husband or wife.—
Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of

competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable— Triable by Magistrate of the first class—Compoundable by the husband or wife of the person so marrying with the permission of the court.

Ingredients

Section 494 of IPC requires the following ingredients to be satisfied:

(i) the accused must have contracted first marriage;
(ii) he must have married again;
(iii) the first marriage must be subsisting; and
(iv) the spouse must be living.

The section contemplates that the offender’s husband or wife, as the case may be, must be living and the offender must marry in any case in which such marriage is void because of the reason that it has taken place during the life of such husband or wife, as the case may be.

There is an exception attached to the section which states that this section does not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction. It also does not extend to any person who contracts a marriage during the life of a former husband or wife, if at the time of the subsequent marriage such husband or wife shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being

alive within those seven years, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are known to him or her.

In other words, this section is inapplicable to two cases. First, it does not apply to a person whose marriage with such husband or wife, as the case may be, has been declared void by a competent court. Secondly, it does not apply to a person who marries when the husband or the wife, as the case may be, is alive but has been continually absent from such person for at least seven years and has not been heard of by him as being alive during that time.

This section does not apply to Mohammedan men. But it does apply to Mohammedan women. By virtue of section 17, Hindu Marriage Act, 1955 it does apply to all Hindus whose marriage has been solemnised after the coming into existence of the Hindu Marriage Act, 1955. It is applicable to Christians by virtue of Act XV of

1872, to Parsis by virtue of Act III of 1936, and to all whose marriages have been solemnised under the Special Marriage Act, 1954.

It is obvious that to hold a person guilty under this section it is necessary to prove that the previous marriage of the accused was valid and subsisting. Naturally, in the event of the previous marriage being illegal and thus non-existent, contracting another marriage would not bring the accused within the purview of this section.

This is clear from the words ‘whoever marries’ which means whoever marries validly or whoever marries and whose marriage is a valid one. If there is no valid marriage there is no marriage in the eye of law. Where the essential conditions of a valid marriage have not been fulfilled, such as ‘homa’ and ‘saptapadi’ in the case of Hindus the second marriage is not a valid marriage, and consequently the charge of bigamy against the accused must fail.

The mere admission of the second marriage by an accused is not enough, it must be

established that the essential conditions of a valid marriage had been gone through. Mere registration of a marriage at the caste organisation, where such a practice is in vogue, is not enough to prove the existence of a second marriage. And a certificate of marriage obtained under section 16, Special Marriage Act, 1954 is also not a proof of marriage.

Where the complainant produced oral evidence that ‘saptapadi’ and ‘kusundika’ (i.e., applying vermilon at the place of parting of hair on the head of the bride) had been gone through along with ‘homa’ in respect of the first marriage, and certain documentary evidence in the form of letters by the husband to his wife and by the husband’s father to the wife’s mother were also adduced, there could be no doubt as to the validity of the first marriage.

But where the validity of the first marriage could not be established through evidence, it was not necessary to look into the aspect of the second marriage for the purposes of bigamy. The Kerala High Court has held that where it is established

that the accused at the time of second marriage honestly and genuinely believed that the tie of his first marriage had been severed by a deed of divorce between the parties to the first marriage, and the parties under it had highlighted that they were living separately and it was impossible for them to live together and that they resolved to terminate their marriage and were free to marry again, the accused deserved benefit of doubt.

Where the lower court without granting a divorce passed an order relieving the physically weak wife from the burden of the sex demands of the husband and also permitted him, at the request of the wife, to have another wife, it was held that the decision of the court being wrong was liable to be set aside.

It has been held by the Supreme Court that where a spouse contracts a second marriage while the first marriage is still subsisting the spouse would be guilty of bigamy under section 494, Indian Penal Code if it is proved that the second marriage was a valid one in the sense

that the necessary ceremonies required by law or by custom have been actually performed.

The voidness of the marriage under section 17 of the Hindu Marriage Act, 1955 is in fact one of the essential ingredients of section 494 of the Code because the second marriage would become void only because of the provisions of section 17 of the Hindu Marriage Act.

What section 17 of the Hindu Marriage Act contemplates is that the second marriage must be according to the ceremonies required by law. If the marriage is void its voidness would only lead to civil consequences arising from such marriage. Section 17 of the Hindu Marriage Act has to be read in harmony and conjunction with section 494 of the Code.

Therefore, merely because the second marriage even if performed by performing all the essential ceremonies turns out to be void by virtue of section 17 of the Hindu Marriage Act, 1955, it cannot be said that the accused would not be guilty under section 494 of the Code.

Proceedings under section 494 do not abate necessarily with the death of the complainant and the court in its wisdom is free to allow continuation of the proceedings by another person. A second marriage performed before the Hidnu Marriage Act, 1955 came into existence does not attract penalty under section 494 of the Code.

In Urmila v. State it was alleged that the accused went through a second marriage according to the Arya Samaj custom for which three and a half rounds of sacred fire are enough to complete a marriage. Saptapadi was not performed. The Supreme Court held that the marriage was not complete and thus there was no liability for bigamy.

In Gomathi v. Vijayraghvan the question of paternity of a child born out of second marriage was involved. The second wife denied the second marriage and claimed to be a virgin. The first wife moved an application requesting the

court to direct the husband, second wife and child to undergo blood test.

It was held that under section 494 the party has only to prove that during the subsistence of the first marriage the second marriage had taken place and its essential ceremonies were performed, and thus dismissal of the application was proper. In this case the Supreme Court's judgment in Gouthem Kundu v. State of West Bengal was relied on in which the appellant was married to the second respondent and after living together for some time the wife went to reside with her parents.

Some four months later she conceived. On return to her matrimonial home she was meted out cruel treatment by her husband and other family members because of the pregnancy. Ultimately she returned to her parental home and gave birth to a female child. She filed a petition under section 125, Code of Criminal Procedure, 1973 for maintenance.

The appellant moved a revision before the High Court against the order of maintenance. During the pendency of the revision petition he came forward with an application praying for the blood test of the second respondent and the child to prove that he was not the father of the child as according to him if that could be established he would not be liable to pay maintenance.

The Supreme Court rejected the application saying that no person can be compelled to give sample of blood for analysis against his or her will and no adverse inference can be drawn against him or her for this refusal. Also, the expression ‘conclusive proof in section 112, Indian Evidence Act, 1872 must be understood by its definition in section 4 of the Act.

In P. Satyanarayana v. U. P. Mallaiah, a wife deserted her husband. Ten years after the desertion the husband married a second time. The Supreme Court ruled that the prosecution was not absolved from the burden to prove that the second wife was taken after solemnization of due ceremonies of a Hindu marriage.

In ***Sarla Mudgal v. Union of Indi***a the Supreme Court held that the expression ‘void’ in section 494 has been used in the wider sense. A marriage which is in violation of law would be void in terms of the expression used under section 494. A Hindu marriage solemnised under the Hindu Marriage Act, 1955, can only be dissolved on any of the grounds specified under the said Act. Till the time a Hindu marriage is dissolved under the Act none of the spouse can contract a second marriage. Converting to Islam and marrying again would not by itself dissolve the Hindu marriage under the Act.

The second marriage of a Hindu husband after his conversion to Islam would, therefore, be in violation of the Act and as void in terms of section 494. Any act which is in violation of the mandatory provisions of the law is perse void, and the apostate husband would be guilty of the offence under section 494 of the Code as all the four ingredients of this section are satisfied in the case.

In S. Radhika Sameena v. SHO, Habeebnagar Police Station, Hyderabad3 it has been held that when a Muslim man, married under the Special Marriage Act, 1954, entered into a second marriage under Muslim Law, he would be liable to be prosecuted for bigamy under section 494 of the Code.

In ***Lily Thomas v. Union of India,*** the Supreme Court held that the 1995 decision of the Supreme Court in Sarla Mudgal v. Union of India? holding a Hindu husband who had after conversion to Islam contracted second marriage dissolving his first marriage guilty under section 494 does not create any new offence, need not be given prospective operation.

It does not violate freedom of religion guaranteed by Article 26 and right to life and personal liberty guaranteed by Article 21, and thus the review petition on ground of violation of Article 20(1) stands dismissed. It cannot be said that the second marriage by a convert male

Muslim has been made an offence only by judicial pronouncement.

The court has only interpreted the existing law which was in force and so cannot be prospective from the date of judgment because concededly the court does not legislate but only gives an interpretation to an existing law. The procedure established by law under Article 21 means the law prescribed by the legislature. Sarla Mudgal has neither changed the procedure nor created any law for prosecution of persons sought to be proceeded with under section 494.

It would, therefore, be doing injustice to Islamic law to urge that the convert is entitled to practise bigamy notwithstanding the continuance of his marriage under the law to which he belonged before conversion. The question of status of second wife and children born out of wedlock was not gone into.

The Supreme Court had not issued any direction for codification of common civil code.

Despite his conversion he would be guilty of offence under section 17 of the Hindu Marriage Act, 1955 read with section 494 of the Indian Penal Code since mere conversion does not automatically dissolve his first marriage.

Under the Mohammedan law a child given in marriage by any person other than the father or the grandfather has the option to ratify the marriage or repudiate it on attaining puberty, khyar-ul-bulugh, and there is no difference whether the child given in marriage be a boy or a girl.

A Mohammedan girl whose father was dead was given in marriage by her mother to a man before she had attained puberty. The man was imprisoned in connection with a crime he had committed and the marriage was not consummated. On attaining puberty the girl married another man. She and this man were held not guilty of bigamy and abetment of bigamy respectively.

The repudiation may be express or implied, and marrying another man on attaining puberty is an implied repudiation. However, a unilateral repudiation of marriage by a Mohammedan woman by ‘faskh’ was held by the Kerala High Court to have no legal sanction and a second marriage by her would amount to bigamy. The Calcutta High Court held that a second marriage contracted by a Mohammedan woman during the period of her ‘iddat’ does not entail liability under section 494 of the Code. A Mohammedan marriage came to an end immediately after either of the parties renounced Islam.

But section 4 of the Dissolution of Muslim Marriage Act, 1939 says that renunciation of Islam by a born Muslim married woman or her conversion into another religion does not dissolve the marriage automatically but under section 2 of the Act she has a right to obtain a decree of dissolution under any of the grounds mentioned therein.

Where a marriage is solemnized under the provisions of the Special Marriage Act, 1954,

and thereafter both the parties convert to Islam, the marriage cannot come to an end according to the Mohammedan law because the marriage itself had not taken place under that law. Such marriage can be dissolved under the provisions of the Indian Divorce Act. The position does not change if only one of the parties to the marriage alone gets converted to Islam.

The Calcutta High Court reviewed all earlier case law and decided that the rule of Mohammedan law that if one of the parties to the marriage adopted Muslim faith in a foreign country the marriage would automatically stand dissolved if the other spouse did not adopt the same faith before the completion of three menstrual periods did not apply to non-Muslims of a country whose State religion was not Islam like India.

Thus, a Hindu wife who embraced Islam since her marriage but her husband did not do so even though three menstrual periods had been over since the conversion, was not entitled to a declaration that the marriage stood dissolved

under the Mohammedan law. Under the Hindu law the apostasy of one of the parties to the marriage did not dissolve the marriage.

Where a Christian entered into a second marriage according to Hindu rites, the second marriage would not be valid in the eye of law and he would be held not guilty of bigamy under section 494. Where marriage of the accused with the complainant was dissolved by a decree of divorce of a district court in Sweden and no appeal was preferred by the complainant, marriage of the accused with another lady after expiry of the period of appeal does not amount to bigamy.

Custom as a defence

The Calcutta High Court upheld a caste custom which allowed wife to have a ‘nikah’ or ‘sagai’ marriage after she had been left by her first husband, and this would not amount to bigamy. The Bombay High Court gave importance to a caste custom which permitted a husband to divorce his wife for a sufficient reason.

Where a man belonging to a particular caste executed a deed of divorce to his wife, it was held that the deed was proved but since it had not been executed for a sufficient reason, the parties entering into subsequent marriage would be guilty of bigamy. The Madras High Court held the view that the courts must allow evidence of such custom.

The law must now be understood in the light of section 29 (2) of the Hindu Marriage Act, 1955. Where a deed of divorce between the parties existed, it was held that the prosecution is under a duty to establish that the marriage could not be dissolved by a customary right of divorce.

Section 495 IPC: Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.—

Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is

contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE
Punishment—Imprisonment for 10 years and fine—Non-cognizable—Bailable— Triable by Magistrate of the first class—Non-compoundable.

Comment
The offence mentioned in section 495 IPC, 1860 is an extension of section 494 IPC, 1860 and also is an aggravated form of bigamy provided in section 494 IPC, 1860.

3. ADULTERY

4. CRIMINAL ELOPEMENT
Section 498 IPC: Enticing or taking away or detaining with criminal intent a married woman.—

Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable— Bailable—Triable by any Magistrate—Compoundable by the person with whom the offender has contracted.

Ingredients

The section requires three things:—

1. Taking or enticing away or concealing or detaining the wife of another man from that man or from any person having the care of her on behalf of that man.

2. Such taking, enticing, concealing or detaining, must be with intent that she may have illicit intercourse with any person.
3. Knowledge or reason to believe that the woman is the wife of another man.

Comment

Under section 498, IPC, 1860 enticing or taking away a married woman with criminal intent is an offence. Entering or taking away somebody's wife for the purpose other than mentioned in section 498, IPC, 1860 does not constitute an offence. Therefore, in order to bring home guilt of a person under section 498, IPC, 1860, the prosecution has to prove that a married woman was enticed or taken away with an intention that she might have illicit intercourse with any person. *(Singana Naga Nooka Chakrarao v State of AP, 2007 Cr LJ 3466)*

Sections 366 and 498.

A comparison of the ingredients constituting an offence under sections 366 and 498

shows that though there are some ingredients which are common, but the ingredients for the offence under section 498 constitute of some of the very important particulars which are not in an offence under section 366, IPC, 1860. The additional ingredients of section 498, IPC, 1860 namely, (i) that the woman said to have been taken away is the married wife of another man, and (ii) that the accused has taken her away with the knowledge that she is the wife of that person are not at all in the offence under section 366, IPC, 1860. Therefore, the offence under section 498 cannot be said to be a minor offence or an offence under section 366 within the meaning of the term used in section 222(2) of the Cr PC, 1973.
(Satya Narain v State of Bihar, 1985 Cr LJ 747 (Pat)

5. Husband or relative of husband of a woman subjecting her to cruelty

Section 498A of IPC reads as, "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."

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.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine-Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or

if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf—Non-bailable— Triable by Magistrate of the first class—Non-compoundable.

Comment

The section was enacted to deal with the threat of dowry deaths. It was implemented in the code by the Criminal Law Reform Act, 1983 (Act 46 of 1983). By the same Act, Section 113-A has been added to the Indian Evidence Act to raise presumption regarding abetment of suicide by a married woman.

Ingredients of this Section

For the commission of an offence under Section 498-A, following necessary ingredients require to be satisfied:

i. The woman must be married;
ii. She must be subjected to cruelty or harassment; and

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

This section makes it punishable to practise cruelty upon a married woman by her husband or any relative of the husband. ***Cruelty means-***(i) any wilful conduct on the part of the husband or his relative that drives the wife to commit suicide or grave injury or danger to life, limb, or health (whether mental or physical) of the woman; or
(ii) harassment or coercion of the woman to meet any unlawful demand for any property or other valuable security or is on account of failure by her or any person related to her to meet such demand. The punishment for cruelty to woman by the husband or his relatives under the section is three years' imprisonment with fine.

In B. S. Joshi v. State of Haryana, 2003 Cri LJ 2020 (SC), the object of Section 498-A of Indian Penal Code was to prevent torture to a woman by her husband or his relatives in connection with demand of dowry.

In V. Seevetha v. State by Inspector of Police and another, (2009) 3 Cr.LJ 2974, the meaning of the word 'relative' would depend upon the nature of the statute. It principally includes a person related by blood, marriage and adoption.

In Shanti Behal v. State, 1994 Cr LJ 2043, there was allegation of harassment, cruelty and maltreatment by the husband and the mother-in-Law against the bride. The victim had written a few days before the incident to her parents expressing apprehension of danger to her life. In her dying declaration her mother-in-law was implicated for burning her and both she and the husband for harassing her. This deçlaration was duly recorded and corroborated by medical men and other circumstantial evidence. The victim's father also testified as to the dowry demands made by the husband. The conviction of the mother-in-law for murder and under Section 498-A and of the husband under Section 498-A was held to be proper.

Guidelines on misuse of sec. 498A
In case of, Rajesh Sharma v. State of Uttar Pradesh the Hon'ble Court issued instructions to prevent the misuse of Section 498-A IPC which was further amended in the Manav Adhikar v. Union of India Social Action Forum, 2018 SCC OnLine SC 1501. Such guidelines include:

i. Complaints pursuant to Section 498-A and other related offences may only be examined by a designated area investigator.

ii. Where a settlement is reached between the parties, they may approach the High Court pursuant to Section 482 seeking the quashing of proceedings or any other order.

iii. If a bail application is submitted to the Public Prosecutor / Complaint with at least one day notice, the same can be decided on the same day, where possible. Recovery of disputed dowry items may not, by itself, be a ground for denial of bail if it is otherwise possible to protect

the maintenance or other rights of women / minor children.
iv. It should not be routine for persons ordinarily resident in India to impound passports or issue Red Corner Notices.
Such rules shall not extend to actual physical harm or death.

No To Family Welfare Committees
Social Action Forum For Manav Adhikar vs. UoI
In September 2018, a three judge bench modified the directions issued in *Rajesh Sharma case* for preventing misuse of Section 498A of Indian Penal Code. It recalled the earlier direction issued by a two judges bench that complaints under Section 498A IPC should be scrutinised by Family Welfare Committees before further legal action by police. Other directions issued by the two judge bench were not interfered with

Who can be prosecuted under section 498A IPC?

Recently Andhra Pradesh High Court in Anumala Aruna Deepika v. State of Andhra Pradesh, held that
"It is now well-settled law that only a relative of a husband by blood or marriage is liable for prosecution under Section 498-A IPC. Girlfriend or concubine, being not connected by blood or marriage, is not a relative of the husband for the purpose of Section 498-A IPC. The Apex Court in the case of U. Suvetha Vs. State [(2009) 6 SCC 757], held that persons who can commit offence under Section 498-A IPC are husbands and relatives only. A girlfriend, being not a relative, cannot be charged under Section 498-A IPC.",

No automatic conviction under section 306
The Supreme Court in Gurjit Singh v State of Punjab, 2019, observed that, merely because an accused is found guilty of an offence punishable under Section 498-A of the Indian Penal Code and the death of the wife has occurred within a period of seven years of the marriage, the accused cannot be automatically held guilty for the offence punishable under

Section 306 of the IPC by employing the presumption under Section 113-A of the Indian Evidence Act.