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# Masculism and Fundamental Rights; An Analysis of Indian Constitutional Realities

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LAWS THAT SOME WOMEN ABUSE

***Abstract: The number of crimes committed against women on a daily basis has increased, which is the primary reason why laws that favour them, protect them, and preserve their privacy and dignity were put into place. The legislature was proactive in carrying out its duties as and when a new law needed to be introduced or an alteration was required. To protect women's interests in society, the following laws were recently introduced:***

1) The 2005 Protection of Women Against Domestic Abuse Act: Women are protected by this statute against all forms of domestic violence, including economic, sexual, emotional, and physical assault.
2) The 2013 Act on the Prevention, Prohibition, and Redress of Sexual Harassment of Women at Work: Often referred to as the POSH Act, its goal is to stop and deal with sexual harassment in the workplace.
3) Act of 2006 Prohibiting Child Marriage: This law forbids child marriages and stipulates that they may be dissolved.
4) Act of 2013 to Amend the Criminal Law: This law, which was passed in the wake of the Nirbhaya case, strengthened penalties for offenses against women, such as sexual harassment, stalking, and acid attacks.
5) The Act of 2017 to Amend the Maternity Benefit: This amendment established provisions for childcare services at companies and extended the maternity leave duration to 26 weeks.

India's dedication to resolving women's concerns and guaranteeing their safety and empowerment is reflected in these laws. They were created with good intentions, and it was thought that they would be quite helpful in protecting the rights of women.

However, these laws, along with many others that are in place today, are structured in such a way that a woman can accuse someone of misconduct, invasion of privacy, or any other act deemed immoral, and the police can use that accusation alone to arrest the accused. In this situation, instant arrests are made rather than conducting a preliminary inquiry. This power that is given to a woman by the legislature has both positive and negative aspects.

We can proudly say that now, if any wrong is done against a woman, the law provides her a lot of remedies that she can avail and get the relief she deserves. This is the positive aspect of having such strong laws in favour of women and the speedy implementation of these laws make them more useful.

But it is obvious, if you give power to one particular section of the society, there are a lot of chances that that power is abused. And that is what is happening in today's scenario.

The legal system in India has made great progress in defending women's rights by giving them crucial defences against exploitation, discrimination, and abuse. But in recent years, there have been increasing worries about how these laws are being abused, especially by women, to harass or wrongly accuse males. Although it is imperative to stress that these regulations are in place to safeguard actual victims, there have been cases in which they have been abused to resolve private conflicts, seek retribution, or obtain material and psychological benefits.

Examples of some laws in short which are misused by women- I am not against the law but I am against it's misuse.

1) The Indian Penal Code's Section 497, which punishes men for having sex with another man's wife yet criminalizes adultery, has come under fire for its gender prejudice against women.[1]
2) The gender prejudices against women under India's Muslim Personal Law have also drawn criticism. In terms of inheritance, divorce, and child custody, Muslim women are legally denied the same rights as males.[2]
3) In rape and sexual assault cases, the victim bears the burden of proof, according to Section 155(4) of the Indian Penal Code. Because they frequently have to provide evidence that they did not consent to the sexual conduct, victims may find it difficult to pursue justice under this provision.[3]

[1]Indian Penal Code, 1860 Section 497
[2]Muslim personal law (Shariat) Application Act, 1937

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4) Prior to the 2005 modification, daughters were not entitled to inherit ancestral property on an equal basis with sons under the Hindu Succession Act, 1956. This clause's gender prejudice against women has drawn criticism.[4]
5) The criminal offense of adultery, which exclusively makes it illegal for a man to have sex with another man's wife, has drawn criticism for its gender prejudice against women.[5]
6) The 1956 Hindu Succession Act has been criticized for its gender bias against women. Prior to its 2005 revision, girls were not entitled to inherit family property on an equal basis with males.[6]

In India, women's abuse of the law is a violation of men's and their families' constitutional rights that needs to be addressed. To guarantee that these laws are not abused and that men and their families are given an equal opportunity to defend themselves, the government should take the necessary actions. In order to safeguard the rights of men and their families, there should also be greater awareness raised regarding the abuse of the law by Indian women. In our society, gender bias is a major problem. Understanding how we could unwittingly contribute to its continuation is crucial, as is working to build a more just society.

Both men and women may suffer from gender bias, which can result in unfair opportunities and consequences. To build a just and equal society, we must acknowledge how critical it is to confront and overcome gender bias. Regardless of gender or identity, we need to foster an atmosphere where everyone is valued. We also need to make sure that everyone has an equal chance to engage in all facets of society. To guarantee that everyone is treated with dignity and respect and that their gender does not restrict their chances, we must cooperate. Last but not least, we must work to establish a culture in which all people, regardless of gender, are valued and welcomed for who they are.

## I. DOWRY HARASSMENT UNDER SECTION 498A OF THE INDIAN PENAL CODE (IPC)

1) What it is: Section 498A is a statute designed to stop women from being mistreated and harassed by their husbands or in-laws, especially when it comes to abuse involving dowries.
2) Misuse: According recent times, women have abused this rule to file fraudulent complaints in situations including marital disagreement, family conflicts, or dowry disputes. Even if the charges are ultimately proven to be untrue, the quick arrest that might follow an accusation under this clause can have a serious negative impact on one's image, finances, and emotional well-being.
3) Concern: According to critics, the law may occasionally be exploited as a means of controlling males or extorting money during the divorce or separation process.Both giving and receiving dowries are illegal, if we are speaking legally. However, the police immediately arrest the accused rather than both parties when a dowry accusation is made against the husband's family.

In actuality, both giving and receiving dowries are prohibited, and if you accuse someone of doing so, you are also held accountable for providing the dowry. It is argued that ignorance of the law is not a valid defence. You are an adult with sound judgment, and even though you are aware that dowries are prohibited in India, you nonetheless completed the transaction. Both parties should then be held accountable.

## II. CRIMINAL PROCEDURE CODE (CRPC) SECTION 125: WIFE MAINTENANCE

1) What it is: If a woman is unable to support herself, she may request maintenance from her husband under this clause.
2) Misuse: This rule may be abused, especially in divorce proceedings where women may request disproportionate or unreasonable amounts of maintenance or alimony. These accusations are unjust because they are sometimes used as leverage to obtain financial advantage in divorce settlements.
3) Concern: It is frequently believed that this clause favours women without adequate checks when they may be well-off or financially secure, creating apparent injustices in the system.

In India, maintenance rules are sometimes abused by women to demand disproportionate amounts from their husbands, frequently during the divorce or separation process. Some women overstate their financial needs or use maintenance requests as a negotiating technique, asking more than is reasonable or required, even though these rules are intended to provide financial support for women in need. Husbands may be disproportionately burdened with this, which could result in both financial difficulty and mental misery. Such abuse highlights the need for a more equitable and balanced approach in the legal system by undermining the laws' intended purpose and escalating friction and mistrust between the sexes.

[3]Indian Penal Code, 1860 Section 155(4)
[4]Hindu Succession Act, 1956
[5]Indian Penal Code, 1860 Section 497
[6]Hindu Succession Act, 1956

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In a landmark ruling, the Supreme Court explained that, despite being placed under criminal law, maintenance procedures under Section 125 of the Code of Criminal Procedure (CrPC.) are civil in nature. The issue concerned the interpretation of a wife's maintenance entitlement even in cases when she disobeys a decree of restitution of conjugal rights for legitimate reasons. The bench, which included Justice Sanjay Kumar and Chief Justice of India Sanjiv Khanna, emphasized that Section 125 of the CrPC. was included to provide a prompt and efficient remedy for defenceless people and should not be confused with criminal proceedings just because of its procedural placement and potential penalties.The Court underlined that the main goal of these rules is to safeguard and assist those who are most in need, especially women.

*A. Arguments on both sides:*

According to the petitioner-wife, she had good reason to refuse to follow a decree of restitution of conjugal rights, and this should not prevent her from obtaining support under Section 125 CrPC. She said that regardless of marital conflicts, the provision was passed to give those who are unable to sustain themselves a prompt and efficient remedy. Her attorney emphasized that maintenance actions are civil and intended to benefit vulnerable people, citing previous rulings such as Mst. Jagir Kaur and others v. Jaswant Singh (1963).

The respondent-husband said that the wife's noncompliance with the restitution decree showed that she had no genuine intention of returning to her marital duties. He maintained that allowing maintenance claims in these situations would incite deliberate disregard for court judgments. Additionally, considering the criminal penalties for non-compliance with maintenance orders, the respondent claimed that the inclusion of Section 125 in the CrPC. automatically makes it a criminal process.

*B. Court's Judgement*

The Supreme Court, in its judgment, observed that maintenance proceedings under Section 125 CrPC. are fundamentally civil. It rejected the respondent's argument equating the proceedings to criminal ones, emphasizing that penal consequences for non-compliance do not alter their civil nature. The Court referred to the Law Commission of India's 1969 report, which underscored that these provisions were included in the CrPC. for effective and speedy enforcement, leveraging the efficiency of criminal courts. The Court reiterated its earlier position in Mst. Jagir Kaur (1963), affirms that maintenance proceedings are summary in nature and aimed at providing relief to helpless individuals.

Regarding the wife's specific non-compliance with the restitution decision, the Court determined that she is still entitled to maintenance if her non-compliance is justified. The Court emphasized that the goal of Section 125 is to protect the welfare of those who are unable to support themselves and to prevent destitution. It said that refusing support in these circumstances would negate the purpose of the clause and put people in danger, especially women.

The Court recognized the provision's significance in tackling the economic inequality and reliance that women frequently face in married partnerships. It underlined that maintenance rules are intended to protect people's dignity and well-being by preventing them from becoming destitute regardless of the status of ongoing marital conflicts.

In conclusion, the Court reaffirmed the civil nature and protective intent of Section 125 CrPC by dismissing the respondent's arguments and upholding the petitioner's right to maintenance.

*C. Conclusion*

The Supreme Court's resolve to preserve the protective purpose of maintenance statutes under Section 125 CrPC. is reaffirmed by this historic ruling. The Court emphasized its responsibility to provide prompt relief to those in need, especially women, by making it clear that these actions are civil. The ruling also makes it clear that a spouse's claim to maintenance is unaffected by legitimate noncompliance with reparation orders. These progressive interpretations guarantee that people are shielded from poverty and that the law continues to be a weapon for social justice**.**

## III. INACCURATE CLAIMS OF RAPE

1) What it is: Section 375 of the Indian Penal Code is one of the laws that punishes rape, which is a terrible offense.
2) Misuse: Men have reported that women have falsely accused them of rape in certain situations, particularly after a relationship has ended or when permission is contested. False accusations of rape have the potential to harm men's reputations, result in protracted legal disputes, and cause emotional and financial harm.
3) Concern: False charges can damage men's reputations and the credibility of real victims of sexual assault, even while the law protects women who are truly victims.

Even though they are not common, false claims of rape made by women can have disastrous effects on the males who are falsely accused. Sometimes, out of retaliation, personal grudges, or a need for attention, women can make up or exaggerate charges of sexual assault. Even if the accused is eventually found not guilty, these false charges may cause them to suffer extreme distress, serious harm to their reputation, and legal repercussions. It can be challenging to overcome the social stigma associated with a rape charge, and the accused frequently has ongoing psychological suffering. False accusations can also damage the credibility of real victims of rape, making it more difficult for them to be taken seriously and get the justice they are due. In order to secure justice for all parties, the legal system must protect victims of sexual violence, but it is also critical to address the suffering caused by false charges.

The practice of accusing someone else of rape without any supporting evidence, such as a victim's complaint or a fabricated or unfounded police report, is known as false rape claims. This clause of Section 375 of the Criminal Code of India (i.e., IPC) is severely abused because Indian laws are typically not gender-neutral.

False rape cases are frequently filed these days. Every rape case that is filed has a unique backstory. Many cases are reported by women who have a consensual sexual relationship with a guy, but when the relationship ends for any reason, the women use the law as a tool to exact revenge, demand money, or even pressure the lad into marrying her. In these situations, the provision's basic goal is being defeated.

Sections 375 (now section 63 of the Bhartiya Nyaya Sanhita) and 376 of the Indian Penal Code (1860) discuss what constitutes rape in India [1]. While section 376 discusses the punishment meted out to the convicted offender, section 375 discusses the definition of rape as having sex with a woman against her will, without her consent, under duress, coercion, fraud, or when she is intoxicated, deceived, or mentally ill, and in any event if she is under the age of 18.

According to the criminal justice and sexual violence authorities, false accusations of rape or sexual assault can be roughly divided into two categories:

*1)* Intentional filing of the complaint: People who really lie about having experienced any kind of sexual assault account for the bulk of false rape or sexual assault allegation cases. In circumstances of sexual assault, the laws may be abused by fraudulently reporting the incident, which could further result in the criminal prosecution of an innocent party and harm that person's name and character in society.

A person may submit a false rape or sexual assault lawsuit for a number of reasons, depending on their psychological makeup. The following is a summary of some of the explanations based on the purported victims' psychology:

>To take revenge
>Financial gain
>Fabricating defence
>Generating compassion
>Drawing attention and public sympathy
>Mental illness
>Denying any type of consensual intercourse and labelling it as rape

Therefore, falsely accusing someone who is innocent of rape or sexual misbehaviour has both criminal and civil penalties. A lawsuit for false allegations may also be brought by someone who has been falsely accused. Reporting a sexual assault or rape to the police with a deliberately false complaint might have repercussions. However, the main problem with fake allegations is that law enforcement and prosecutors are not treating false criminal complaints seriously because they squander valuable resources and time.

*2)* False/ Fading memory

Women frequently give inaccurate and misleading accounts as proof of the accused's activities because of faulty or deteriorating memory. These misleading stories frequently lead to the blame of an innocent person for a horrible deed that was not committed by him because they are not supported by reliable witnesses and are not always true in their whole. In India, there have been multiple cases of women fabricating these stories.

Rising trend of rape cases in India

Approximately 74% of rape cases in India are fake or falsely accepted by the victim, according to an analysis of the recent trend of false sexual assault case admissions. The Crime Record Department (NCRB) released this statistical report, which discusses these cases nationally, with a record for each state. About 41% of the rape cases reported in the relevant state are fabricated, according to claims made by Umesh Mishra, the DGP of the Rajasthan Police Department, in January 2023.

This shows the rising trend of false rape cases in India.

Additionally, compared to 2021, the number of procedures against those who were wrongfully accused increased by almost 68% in 2022.

Family pressures are the primary cause of women in India giving misleading information about rape cases. Because of the conservative and backward thinking of the majority Indian population, women are compelled to unjustly accuse innocent people, which degrades their spirit. The emergence of the "#METOO" movement in late 2018 marked the beginning of this practice of false accusations in India.

The following examples help illustrate the seriousness of the fraudulent charges that Indian women file:

1) Over the course of 6 years, a girl from Jabalpur, Madhya Pradesh, filed approximately 6 false rape case accusations against a total of 6 different men in the city. She first accused a man of rape, got married to him, and then filed new rape, domestic abuse, and dowry accusations against him. Following this, she filed 4 more rape charges against 4 separate males between July 2021 and July 2022[7]
2) In the 2013 case of Atender Yadav vs. Govt. of Delhi, the purported victim, acting as her tutor and command, filed a false complaint against the innocent victim due to the influence of her mother.[8]
3) The petitioner in the 2022 case of Gurmail Singh vs. State of Punjab had just vaguely threatened to accuse the respondent of a false rape allegation. The lawyer said that the FIR contained no indication of overt behaviour. It would be quite easy for someone to make vague accusations against someone else if a formal complaint was made on the basis of these charges, particularly if there has been past hostility between the parties.[9]
4) In a different case, a 19-year-old female in Indore claimed to have been kidnapped, gang-raped, and tried to kill herself. Several scientific pieces of evidence were examined together with about 1500 CCTV clips as the case progressed. The authorities eventually came to the conclusion that the girl's charges were contradictory and lacked merit.[10]

By closely examining the aforementioned incidents, we can observe how frequently the judicial system is shaped and misunderstood by certain members of society who are indifferent to the mental and emotional states of the individuals they accuse of committing these grave offenses. The man may suffer from mental trauma as a result of these accusations, leaving him permanently scarred. The lives of innocent persons may suffer significantly if attention is drawn to the outcomes of these accusations.

A man in his mid-thirties from Gurugram committed suicide in August 2022 after being accused of false rape [9]. One such instance is this one![11]

The primary reason why false charges are still accepted, not only in India but globally, is the gender-based prejudice in the way that law enforcement and the judiciary interpret rape cases. Reducing the increasingly increasing tendency of these misreported incidents can be achieved by making the inquiry less biased and more gender-neutral.

Furthermore, the Indian legal system, which is primarily focused on women, needs to become more gender neutral by considering both parties' arguments (Audi alteram partem) before rendering a decision or verdict. This would emphasize the adage "there are always two sides to a story." Finally, because "justice delayed is justice denied," everyone should have easy access to justice, regardless of gender, whether they are the accused or the victim.

## IV. THE 2005 DOMESTIC VIOLENCE ACT

1) What it is: To shield women against economic, sexual, mental, and physical abuse in the home, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) was passed.
2) Misuse: According to some men, women may abuse this law's provisions—which include protection orders, residency orders, and financial assistance—in situations of marital discord or to obtain an advantage in divorce or custody disputes.

[7]Ritu and Ridhi, Madhya Pradesh High Court Denies Bail to Woman Accused of Extortion and Filing False Rape Cases against Multiple Men (SCC Times, 4 April 2024)
https://www.scconline.com/blog/post/2024/04/04/madhya-pradesh-high-court-denies-bail-to-woman-accused-of-filing-false-rape-cases-against-multiple-men-scc-times/ accessed 4 April 2024
[8]Atender Yadav v. State Govt of NCT of Delhi [2010] Crl.A. 1340
[9]Gurmail Singh vs State of Punjab and Another [2022]
[10]Bobins Abraham, Indore Girl Who Claimed She Was Abducted, Gang-Raped, Stabbed, to Be Booked for False Complaint (India Times, 21 January 2021)
https://www.indiatimes.com/news/india/indore-girl-who-claimed-she-was-abducted-gang-raped-stabbed-to-be-booked-for-false-complaint-532514.html accessed 4 April 2024
[11]Bagish Jha, Framed in Fake Rape Case, 30-Yr-Old Dies by Suicide (The Times of India)
https://timesofindia.indiatimes.com/city/gurgaon/framed-in-fake-rape-case-30-yr-old-dies-by-suicide/articleshow/93442362.cms accessed 4 April 2024

A guy may be evicted from his own house as a result, or he may incur excessive legal and financial obligations.

3) Concern: Although the law is meant to shield women from actual domestic abuse, some women may abuse it as a coping mechanism during divorce procedures or to settle personal scores, according to critics.

According to a recent ruling by the Patna High Court, it is cruelty when a wife harasses her husband by fabricating allegations of domestic abuse. In this case, the woman claimed that her husband had illicit relationships with several people outside of their marriage after a marital argument. She also claimed that her husband and his mother had engaged in fornication and various forms of adultery. The Family Court has failed to appreciate the aforementioned issues of initiation of criminal proceedings, domestic violence, and giving complaint to appellant's employer which has tarnished the appellant's image at his workplace," noted a bench consisting of Justices P. B. Bajanthri and Ramesh Chand. accusing the appellant and his mother of engaging in prostitute solicitation, adultery, and fornication.

These are the components of cruelty, and the appellant has suffered psychological harm as a result. The respondent acknowledged that some of the accusations made in the litigation were at the urging of her advocate, but the Family Court has not taken note of the fact that she had no intention of joining her husband in light of the three charges brought against him.[12]

The domestic violence act, also known as the "DV Act," was enacted in 2005 with the primary goal of protecting women exclusively from domestic abuse. However, a cursory examination of the act's definition reveals that the term "aggrieved person" only refers to women, meaning that only men are subject to prosecution, not women. We treat women on an equal footing with men in the twenty-first century, and there have been several instances of women verbally and emotionally abusing males, insulting them, and humiliating them.

Although it is not uncommon for women to engage in domestic violence against men, this is a reality. Since our constitution guarantees equality, which means that men and women must be treated equally, why does the DV Act contain provisions specifically for women and not for men? Why are women protected, and why is it assumed that men are the only gender capable of cruelty and domestic violence against women?

Similar to terrorism, the DV Act has given women an unfair edge and is the most deadly tool available to them for extortion, exploitation, and community threats against men. The DV Act contains clauses like as maintenance and the right to live on the property independent of any legal claims. The legal provision renders the legislation susceptible to abuse. Which is true, according to data, just 2% of cases have led to convictions, and 98% of cases are thought to be fraudulent. The DV Act makes no mention of penalty for women in the event that a false case is filed.

It is against the rule of law to prosecute innocent males in the name of protecting women. A woman can easily abuse the law, as in the case of If a woman believes she has been insulted, she may file a complaint under the DV Act. Insult is a subjective phrase that is entirely up to her interpretation. It's interesting to note that if she verbally or even physically abuses him, he has no legal recourse under this law. Even slight disagreements within a marriage could give rise to the provisions of the DV Act, and since the legal process is regulated by the CRPC, a man who even offends a woman is considered to have committed a crime.

If the case is untrue, a man's and his family's reputation is damaged, and there are no legal safeguards or actions that men can take to restore their reputation. Stated differently, men are treated like sitting ducks by this law.

Men are required to pay maintenance to women even if the matter is sub-judice, which means that punishment for men begins as soon as a false complaint is filed. This goes against the presumption of innocence and natural justice principles. The DV Act is the first tool used by women to obtain an easy divorce and maintenance, even if they have not experienced any form of domestic violence.

The truth is that the DV Act has not addressed the issues that both men and women experience about domestic violence; instead, the law is frequently abused. Society needs more gender-neutral laws that treat men and women equally in cases of domestic abuse, rather than making innocent people, like the majority of men, fearful and providing the other gender with a tool for extortion. The DV Act appears to be gender biased. In order to prevent its abuse and to attain gender equality and fair justice, it needs to be changed with more gender-neutral clauses.

Regarding Laxmi Narayanan v. Kamtachi According to the Honourable Supreme Court, there is no time limit on filing a complaint under the DV Act.

[12]www.verdictum.in

## V. FALSE DOWRY ALLEGATIONS

1) What it is: Several statutes, such as Section 498A and the Dowry Prohibition Act (1961), address violence and harassment related to dowers.
2) Misuse: Men sometimes accuse women of filing fraudulent complaints about dowries in order to obtain a better divorce settlement, especially when there is a financial dispute or the marriage has terminated. Men claim that the simple charge of dowry harassment can result in serious financial difficulties and harm to one's reputation.
3) Concern: The emphasis on dowry harassment can result in claims that aren't always supported by proof, and the court proceedings can take years to conclude.

In 1983, the Indian Penal Code (IPC) was amended to include Section 498A, which protects married women against abuse and harassment by their husbands or in-laws, especially where dowry demands are involved. It is an essential clause meant to uphold justice and safeguard women's rights. But the abuse of this rule in recent years has sparked worries about what it means for innocent people.

The Women and Men in India 2022 report from the Ministry of Statistics and Programme Implementation (MoSPI) states that a sizable percentage of criminal cases in 2023 were crimes against women. Nearly 30%, or about 7 lakh cases, of the 22.8 lakh offenses that were reported were filed under Section 498A. Even while the law has been effective in many instances, a significant portion of accusations have been shown to be untrue, resulting in the accused suffering emotional agony, monetary loss, and harm to their reputation.

### *A. Misuse of section 498A IPC*

Despite its good intentions, Section 498A has frequently been used as a weapon for financial gain, emotional manipulation, or personal retaliation. Misuse usually happens in situations such as property disputes, divorce battles, or situations when settlements are forced through false accusations.

Misuse has the following effects:

Emotional Toll: Accused people experience emotional anguish and stigma, even elderly parents.
Financial Strain: Resources may be exhausted by legal disputes and harm to one's reputation.
Impact on Society: When cases are filed maliciously, public confidence in the legal system may be damaged.

The False Dowry case in India has been a major worry in recent years, prompting concerns about the effectiveness of current legislation and the possibility of abusing regulations intended to safeguard residents. Even though the dowry system is still a contentious and frequently disputed topic in Indian society, it is imperative to address the situations in which the system is abused to further personal agendas or obtain unfair advantages, harming defenceless people and families.

The goal of the 1961 Dowry Prohibition Act was to challenge the deeply ingrained social mores around dowry customs. But instances of false dower lawsuits in India have increased over the years, with many cases being filed to harass and manipulate the accused rather than to seek justice. An atmosphere of distrust and anxiety is fostered by this improper use of the law, especially for people who might be involved in such accusations even though they have done nothing illegal.

A public outcry over the increasing trend of false claims has resulted from statistics showing a sharp increase in dowry-related cases. Families, who are frequently the foundation of Indian society, have endured countless financial and emotional hardships as a result of what they feel are false accusations. False dowry claims have resulted in a number of cases when men and their families have been the targets of extortion and character assassination, which has caused erroneous imprisonment and social disgrace.

A number of groups are pushing for awareness campaigns and legislative changes to address this urgent problem by identifying and reducing False Dowry case India scenarios. Instead of a strictly punitive response, legal experts and social reformers contend that a more nuanced strategy that permits mediation and reconciliation is required. They stress the value of mediation in family law as a means of settling conflicts amicably before they turn into court cases. By encouraging communication, all sides can air their complaints in a safe setting, greatly lessening the emotional strain on the families concerned.

An alternative framework where people can examine their disagreements without resorting to the legal system can also be offered by emphasizing mediation. In addition to preventing escalation, mediation has proved helpful to many families in repairing ties that may have been harmed by miscommunications and predetermined assumptions. When applied properly, this technique promotes mutual respect and understanding by bringing accused people and victims together under the guidance of an impartial third party.

The public's ignorance of their rights and the associated legal procedures is another element that contributes to the widespread problem of bogus dowry lawsuits. Men's and women's education programs can help people better grasp the legal ramifications and persuade potential victims to get legal counsel instead of acting out of retaliation.

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It's also crucial to train law enforcement to distinguish between genuine allegations and unfounded ones. In order to potentially lower the number of unlawful arrests, police officers and investigative officials need to be trained on how to handle dowry cases tactfully and sensibly. In a similar vein, community involvement is essential; communities can be vital in halting the spread of false information and encouraging an honest culture.

Addressing the False Dowry case in India is more than just a legal problem; it is a significant social issue that calls for comprehensive action from legislators, legal professionals, and local communities. By promoting equitable treatment and comprehension within this legal framework, it is hoped that we may make everyone's environment safer, lessen the stigma associated with dowry cases, and stop the abuse of the legislation that is meant to protect people.

In conclusion, society must acknowledge its obligation to combat bogus dowry accusations. We may strive for a system that not only denounces the improper practice of dowry demands but also shields the innocent from the damaging effects of false accusations by utilizing Family Law Mediation, awareness campaigns, and judicial sensitivity. Fostering a balanced legal approach is essential to ensure that justice is administered fairly and equally to both the victims and the accused.

## VI. WORKPLACE SEXUAL HARASSMENT (POSH ACT)

1) What it is: The goal of the 2013 Prevention of Sexual Harassment (POSH) Act is to stop and deal with sexual harassment at work.
2) Misuse: According to some males, women may abuse this rule to make unfounded accusations against their male coworkers, especially when there is a disagreement at work or in their personal lives. Even if untrue, such accusations can have a negative effect on a man's reputation, career, and personal life.
3) Fear: Men worry that false allegations might be used as a form of retaliation or as a way to harm someone's reputation, even though the law is essential for shielding women from sexual harassment at work.

A historic piece of legislation, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (often referred to as the POSH Act) aims to make workplaces safer and more welcoming for Indian women. In addition to providing redressal processes and empowering women to report instances of sexual harassment, the Act mandates that organizations establish Internal Complaints Committees (ICCs) and Local Committees (LCs) to handle such complaints.The Act is not without its difficulties, despite its goal of protecting victims. False complaints are one of the most controversial topics since they have the potential to damage the framework's reputation and efficacy if they are not handled properly.

In order to address this issue, Section 14 of the POSH Act lays out the foundation for responsibility and deals explicitly with malicious and false complaints. Although the law's goal is to safeguard actual victims, Section 14 aims to achieve a balance by prohibiting abuse of the complaint procedure. The function of Section 14, its provisions, difficulties in enforcing it, the effects of false complaints, pertinent court rulings, and suggestions for guaranteeing equity in handling false complaints under the POSH Act are all examined in this article.

The POSH Act's Section 14 acts as a safeguard to stop misuse of the legal system. Striking a balance between upholding the rights of legitimate complainants and prosecuting those who make malicious or fraudulent complaints is the aim. The following succinctly describes the main goals of Section 14:

- Maintaining Fairness in the Legal Process: Section 14 makes sure that the accused and complainants receive equitable treatment, deterring false complaints meant to damage innocent people.
- Preserving the Reputation of Innocent Parties: A person's job, reputation, and mental health can all be negatively impacted by false complaints. A legal remedy is offered under Section 14 to punish individuals who maliciously file complaints.
- Preserving the Credibility of the POSH Act: The major goal of the POSH Act is to prevent sexual harassment in the workplace, and by handling fabricated allegations, Section 14 contributes to the Act's integrity. The integrity of the Act is maintained and the protection of actual victims is prioritized by making sure that harmful complaints are handled efficiently.

### *A. Key provision under section 14 Posh Act*

The penalties for making malicious accusations or presenting false evidence are outlined in detail in Section 14. These clauses are intended to maintain the openness, integrity, and lack of exploitation of the reporting procedure for sexual harassment. The following are the main clauses in Section 14:

1) Disciplinary Action for Malicious Complaints: If a complaint is determined to be malicious, Internal Committees (ICs) or Local Committees (LCs) have the authority to suggest disciplinary action against the complainant.

It is necessary to provide unmistakable proof of deliberate deception or malevolent intent in order to enforce such measures. Malice is not always implied by the allegation's absence of supporting proof.

2) Penalties for False Evidence: Section 14 punishes those who present false or misleading evidence in addition to handling malicious accusations. A witness or party may also face disciplinary action if they intentionally give false information during the investigation. With both complainants and witnesses held responsible for their acts, this clause guarantees the integrity of the entire investigation.
3) Protections for Good-Faith Complaints: Section 14 recognizes that false complaints aren't always intentional. People who make complaints in good faith, even if they don't have enough proof, are protected. By ensuring that victims are not deterred from reporting harassment due to the possibility of punishment, this promotes an atmosphere in which legitimate complaints can be filed without worrying about reprisals.

*B. Difficulties in Implementing Section 14*

Notwithstanding the purpose of Section 14, there are a number of difficulties in enforcing it, especially in the delicate area of sexual harassment cases. The following are some of the main challenges in implementing Section 14:

1) Proving Malicious Intent: Establishing malicious intent is one of the trickiest parts of implementing Section 14. There must be unmistakable proof that the complainant intentionally filed a false complaint with the intention of causing injury; it is insufficient to show that the allegation is unsupported. This can be challenging to show, particularly if the complaint is based on a subjective experience or doesn't have hard proof.
2) Danger of Dissuading Sincere Complainants: Sincere victims may be deterred from reporting sexual harassment if they fear punishment for making a malicious complaint. Since many harassment accusations take place in private settings without witnesses, it can be difficult to obtain hard proof. When the evidence is poor or circumstantial, victims may be discouraged from coming forward for fear of being accused of submitting a fraudulent report.
3) Organizational Bias and Lack of Training: The caliber of the investigations carried out by ICCs and LCs also affects how effective Section 14 is. Regretfully, a lot of organizations lack the tools and expertise necessary to carry out exhaustive, objective investigations. Organizational bias may exist in some situations, where businesses put their reputation ahead of impartiality during the inquiry process. As a result, complainants may be wrongfully punished, and offenders may not be held accountable.
4) Subjectivity in Determining "Malicious" Behavior: The definition of "malicious" behavior is ambiguous, and committees may differ greatly in their assessments of what exactly qualifies as malicious intent. Because of this subjectivity in characterizing malicious activity, sanctions may be applied inconsistently, thus undermining the system's fairness.

*C. Impact of false allegations at work place*

False complaints can have serious repercussions for the workplace as a whole in addition to hurting the accused persons. The POSH Act may be abused in a number of ways:

1) Personal Vendettas or Retaliation: Complaints are sometimes made to resolve unconnected conflicts or as a kind of personal retaliation. For instance, in order to gain leverage in a quarrel at work or as retaliation for a perceived grievance, an employee may submit a complaint against a boss or coworker. These personal grudges have the power to skew the law's intent and subject the accused to unfair punishments if they are not properly investigated.
2) Politics in the workplace and outside influences: Workers may be persuaded to make false accusations by peers, coworkers, or interest groups. People may use the POSH framework as a weapon against their rivals in fiercely competitive settings where ambition and rivalry can result in serious disputes. The accused's job and reputation may suffer as a result of this abuse.
3) Disruption of Workplace Dynamics: Unfounded accusations have the potential to produce a poisonous work atmosphere. Employees may become cautious while engaging with one another, which could undermine trust and hinder collaboration, particularly if the complainant and the accused collaborate. A functional workplace depends on teamwork and productivity, both of which can be hampered by this climate of mistrust.

Conclusion

By addressing fraudulent complaints, Section 14 of the POSH Act is essential to protecting the integrity of the legislation. Although there is reason to be concerned about malicious filings, safeguarding actual harassment victims should come first. Fairness for both is ensured by a balanced approach, as described in numerous court rulings.

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## VII. THE CUSTODY AND DIVORCE DISPUTES

1) What it is: With the prevailing assumption that mothers are better qualified to care for children, Indian custody laws—particularly those included in The Guardian and Wards Act (1890) and personal laws like the Hindu Minority and Guardianship Act (1956)—frequently give preference to women in child custody disputes.
2) Misuse: According to some males, women may harass men during divorce procedures or use child custody as a way to demand financial support. Sometimes, even when the father is a decent parent, women may fabricate accusations against him in order to obtain custody or keep him from seeing the child.
3) Concern: Although the wellbeing of the children comes first, there are instances where the laws put fathers in a position where they feel unfairly disadvantaged in custody disputes.

I was browsing through a social media platform where I came across a video wherein there was a couple standing outside the court and they were bidding their goodbyes. The custody of the child had been granted to the mother. But in the video, the child was hugging on to his father really tight and did not want to let him go. He wanted to stay with the father. When he was handed over to the mother by the help of the police personals, the child started hitting the mother and started crying. He was unwilling to go with the mother. He wanted to stay with the father. That video actually showed the reality in today's times that how easy It is for a woman to get the custody of the child. The child must be around 15 years of age, so he could very well decide with whom he wanted to stay and also the father wanted the custody of the child. But not considering any of these facts, the court blindly gave the custody to the mother and the child went back crying.

## VIII. MARITAL RAPE

1) Definition: In India, non-consensual sex between a married couple is not considered a crime and is referred to as marital rape.
2) Misuse: Some men worry that if laws against marital rape are passed, they may be used to unjustly accuse husbands in marital conflicts, which might have negative societal, legal, and personal effects.
3) Concern: Although it is often acceptable to make marital rape a crime in order to shield women from violence, there is concern that if laws are not properly drafted, they may be abused.

Marriage is a cultural, legal, and anthropological institution that creates rights and responsibilities between people that are accepted by society. Marriage serves as the foundation for the acceptance of sexual relationships in many cultures. However, there has always been ambiguity in the law around physical hostility and sexual violence in marriages. "Forcible sexual assault or violence by one spouse towards the other" is what is meant by the term "marital rape." To put it another way, it's having sex with a spouse without getting their permission. Although many societies have historically viewed the establishment of a sexual relationship between a married couple as a "right," the context of permission becomes just as significant as it is for nonmarried people. International conventions and voices opposing intimate partner and sexual abuse in marriages have grown since the 20th century (more specifically, sexual violence against women).However, marital rape has remained under the shadow of legal ambiguity in many countries, outside the criminal law and frequently tolerated, despite the recognized terrible repercussions of any sort of forced sexual encounter.

Women are primarily, though not alone, victims of marital rape. Chronic violence is often perpetuated by the couple's abusive relationships, which tend to develop a vicious cycle. Political and social views also influence this. However, for ages, "marriage" has been utilized as a regular exemption or defence in cases of sexual assault, and marital rape has been ignored in literature and policy. Additionally, this has resulted in a decrease in help-seeking, ongoing trauma, and the invalidation of the experiences of survivors of marital rape.

### *A. Position of Marital Rape in India*

Of the 36 nations that have yet to make marital rape a crime, India is one of them. IPC Section 375's exemption from an undesired sexual encounter between a husband and wife (who are both over 15) has been hotly contested and opposed over the years. The Hindu Centre for Politics and Public Policy claims that rather than using legal arguments, mediation and compromise are frequently used to resolve legal ambiguity regarding "consent" in cases of sexual abuse within marriage. According to some, marriage's "obligatory sexual interaction" clause violates both Article 14 (Right to Equality) and Article 21 of the Constitution.

Laws such as "The Protection of Women from Domestic Violence Act, 2005" and "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act" have been passed in India over the years to improve the safety and protection of women.

Appeals from numerous women's organizations, human rights associations, and ultimately the Justice Verma Commission's recommendation to criminalize marital rape have added fuel to the fire following the inhumane Nirbhaya incident in Delhi and the Criminal Law (Amendment) Act (2013)'s failure to address the issue.

Many occurrences of marital rape go unreported, despite the fact that the National Crime Records Bureau reports that the number of rape cases in India is rising. The exception is still in effect as of right now, and "marital rape" is seen as a grey area that should be evaluated and interpreted in the context of each individual as well as the couple's interpersonal relationship, taking into account any prior history of domestic violence. Regretfully, this type of violation is not a one-time occurrence and frequently occurs as a component of long-term abusive relationships. Multiple sexual assaults that take place behind closed doors and are accepted by society under the guise of marriage must cause untold agony. This is frequently outside the scope of social and medical services and can be physically and emotionally destructive. Naturally, disclosure rates will be low as well. In the end, marriage represents a socioemotional connection between people that also involves love, respect, and trust. Unconsented sexual encounters are often emotionally and physically harsh, which is essentially against the structure of marriage and has a number of detrimental biopsychosocial repercussions.

Regardless of whether the crime is prosecuted or not, victims of marital rape suffer severe long-term effects from the trauma caused by the assault, regardless of whether it occurs once or as part of a pattern of domestic violence.

### *B. Why Marital rape should not be criminalised in India.*

But there is another aspect to Marital rape. There is a very big reason as to why Marital Rape has not been criminalised in India yet. Since a coin has two sides, many people think that making marital rape a crime will harm Indian society. The following is a list of every argument against making marital rape a crime:

1) The Union Government claimed in its January 2022 argument to the Delhi High Court that making marital rape a crime would undermine the institution of marriage and make it simpler for harassing spouses to do so.
2) "In my view, marital rape should not be considered a crime in India, as it will cause chaos in families, and our country depends on its family platform for its success of upholding family values," stated Justice Dipak Misra, the former Chief Justice of India.
3) Since there is no permanent proof in a case like this, a man's sexual acts with his wife cannot be documented as evidence in court.
4) An Indian official told the Rajya Sabha in 2016 that because of societal conventions, religious beliefs, poverty, illiteracy, and the sacredness of marriages, the idea of marital rape is global and cannot be applied in Indian situations.
5) Due to family shame, child damage, and social stigma, women may feel under pressure to confess marital rape.
6) The wife's testimony is frequently the only proof of the rape in cases when the husband is accused of raping her. And simply relying on that testimony would be unfair, unjust and would defeat the natural justice and the purpose of law.
7) DNA or semen samples would not be relevant because the rape may have occurred after the spouses had engaged in consensual sexual activity.
8) It is quite impossible to demonstrate the lack of consent because the husband and wife would have had frequent sex.

### *C. What is the contention here?*

According to Section 375 of the Indian Penal Code 1860, a male doing sexual actions against a woman against her will or consent is considered rape. There are two exceptions to this rule, though. "A medical procedure or intervention shall not constitute rape," according to the first exception.

According to the second exception, "sexual intercourse or sexual acts by a man with his own wife" would not be considered rape if the wife is older than eighteen. The constitutionality of this clause is being examined.

Although marital rape is not illegal in India, a woman may still pursue a case under other Indian Penal Code prohibitions, such as cruelty, and request a divorce.

### *D. Why does Indian law make an exception for marital rape?*

During British colonial control, the Indian Penal Code was established in 1860. Senior lawyer Rebecca John told the court during Wednesday's sessions that the marital rape exception was based on antiquated ideas.

There had long been a "doctrine of coverture" in England. This theory meant that the husband and wife were one person after marriage and that "the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband," as the Supreme Court also stated when it decriminalized adultery in 2018.

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As a result, a woman was not allowed to do things like purchase real estate or sign a contract against her husband's preferences. Furthermore, according to a 1707 English case, "the wife owed her husband a 'consortium' of legal obligations, which included sexual intercourse, in exchange for support and protection."

Hale's concept is one of the earliest examples of the exception to marital rape. According to Matthew Hale, a prominent criminal law author who served as chief justice of the Court of King's Bench in England in the 1670s, "the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract: the wife has given up herself in this kind unto her husband, which she cannot retract." This statement was published in 1736.

These kinds of ideas led to the inclusion of marital rape as an exemption to the term of rape in the British Indian Penal Code during its drafting.

If we see today's circumstances, if we criminalise marital rape, it would become very easy for a spouse to put a fake allegation of rape upon the husband and it would take years in the court proceedings to prove if those allegations are true or fake ones. In all those years, the reputation of the family and the husband will be ruined, he will lose his job, his friends, his family connections and would be defamed on social media platforms.

After years of fight in the court, even if the husband is acquitted by the court, still there will be no use of that judgement because his reputation, job, social life will be ruined and maybe the age in which a person gets married will also surpass.

The fact that it will be very easy to put an allegation of marital rape upon the husband and ultimately the burden of proving that it did not happen lies upon the husband makes it impractical, unfair, unjust and against the principles of equity and justice. Therefore, in my opinion, marital rape should not be criminalised yet.

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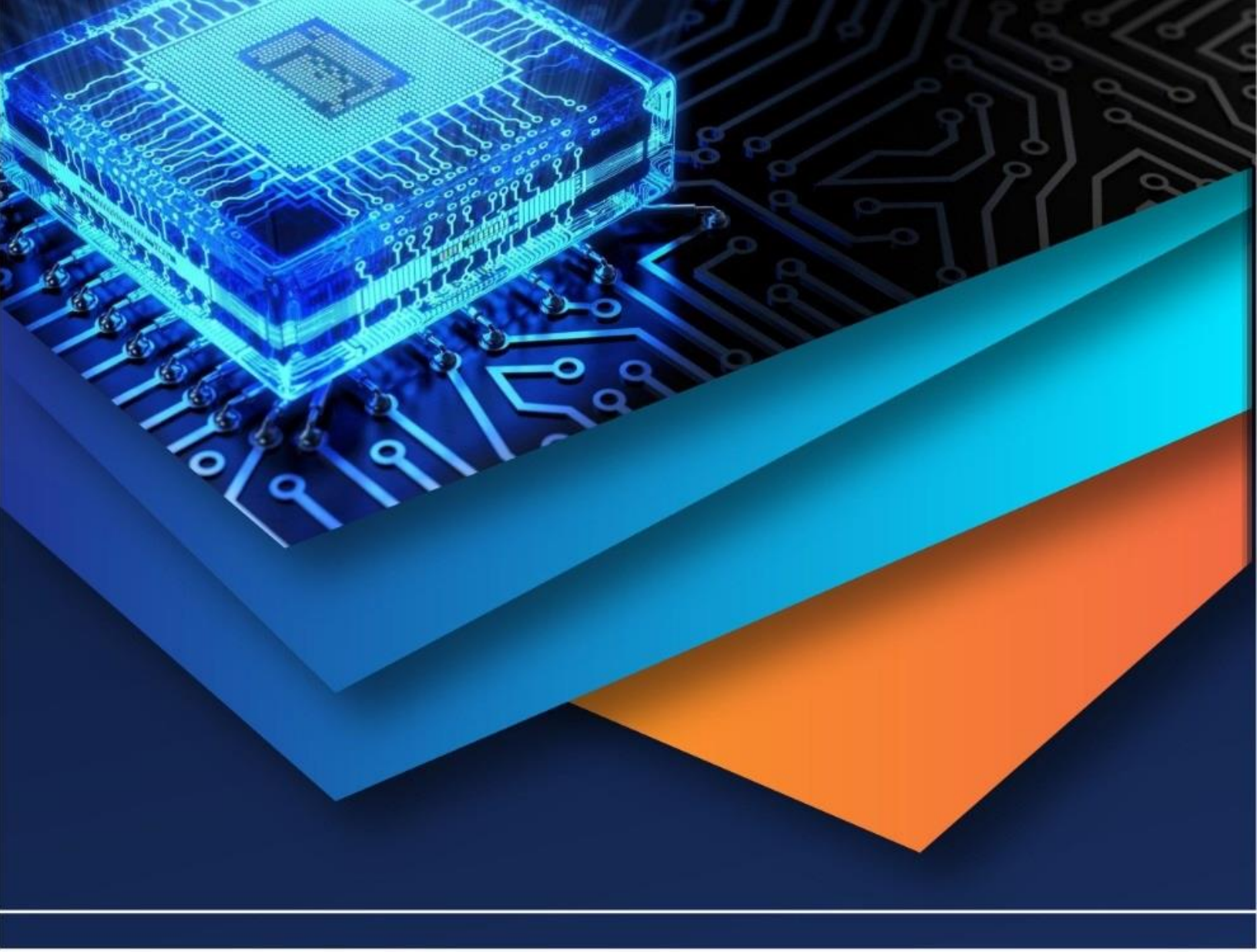

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