

Legal protection of Women in Dowry Death

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ABSTRACT

Dowry Death is one of India's most horrific or hideous and burning things. Regulations and regulations have been passed and implemented by the country's legal system; campaigns and awareness programs have also been initiated in India by the Governmental and Non-Governmental Organizations against the Dowry Deaths and Dowry System, but despite the presence of such initiatives, figures on dowry-related deaths have only increased in India. Amid the rapid growth of middle-class society and youth population, steps toward modernization, big privileged economic development, better education system, and so on, there are still some grey areas where the country still lacks growth, and one of these issues is the prevalent Dowry System and related Deaths, which continues to rise over time. This article has made an effort to scrutinize and evaluate legal provisions which has been adapted and adopted by the Indian Legal System to minimize nuisance of Dowry Deaths, highlight loopholes and along-with its betterment in the legal system & the society and also to spotlight the available remedies as also how to further augment such remedies so as to be beneficial to the genuinely aggrieved party.

Keywords

Dowry Death; Dowry Prohibition Act, 1961; Dowry System.

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Introduction

In Modern India, the Dowry system's risk has become a severe and immoral social stigma even though society and people claim to be literate and educated. This leads to oppression, violence and physical and emotional abuse towards women, as well as causing severe financial and emotional strain to the parents and family members of the wife, tensions in marriage and in the home of the husband. There is such a society where demanding Dowry either during the marriage or even after the marriage is a crime, but this terrible Dowry System issue still exists in this society.

The Indian Dowry Scheme is related to the creation of the union. But unlike the present time dowry was, in the ancient times, a completely voluntary gift to the daughter and her husband that has become a conditional dowry in the present scenario. The ancient text and literature portrays and indicates that marriage ceremony was one of the most important rituals and one of the most important ceremonies in a person's life, almost obligatory and binding for all Hindu men in general and all women in particular, but in those texts and literature there is no mention of Dowry Process. During the Vedic era, marriage was a holy bond blessed by the gods and goddesses themselves, and no human actions could break this holy bond. There have been some very basic and simple rules that people have followed for marriage consideration, but Dowry is still not mentioned. Dowry Death can be defined as an unnatural death of the wife due to demand for dowry by the husband and/or his family. Including money to properties such as jewellery, movable and immovable property and so on, Dowry can include everything. Women are either killed by the husband or his family in the absence of fulfilment of their desire, greed and lust for dowry, or the woman committed suicide

because she could no longer face the humiliation of the dowry..

According to the statistics provided in the 2016 NCRB Report, the total number of cases recorded in 2016 related to Dowry Deaths was 7,621 and the total number of cases reported in 2016 related to the husband's or his relatives ' cruelty to the wife was 1,10,378. India holds the world's largest number of cases of Dowry Death.

Discussion

legal services available to the victims:

With the rising number of cases of death by dowry in India, the government has laid down certain guidelines for dealing with such cases, and the laws have also been revised to improve the legal system for protecting and helping victims of dowry deaths or cruelty. The Indian Penal Code (I.P.C.), the Indian Evidence Act (I.E.A.), the Criminal Procedure Code (Cr. P.C.) and the Dowry Prohibition Act (D.P.A.) to protect women from Dowry Deaths or Violence resulting from dowry cases.

Indian Penal Code

- **Dowry Death is dealt with in Section 304 – B of the IPC. The additionally says:**

- i. If the death of a woman is caused by any burns or physical harm or occurs in circumstances other than usual within seven years of her marriage, and it is shown that she has been subjected to cruelty or abuse by her husband or any relative of her husband for, or in connection with, any request for dowry shortly before her death, that death shall be called "dowry death" and that husband or father shall be assumed to have died.

ii. Whoever commits a dowry death shall be punished with imprisonment for a period of not less than seven years, but which may extend to life imprisonment.

- Ingredients of Section 304 – B of I.P.C. are as follows:

i. When the woman's death is caused by burns or any other bodily injury under an unexpected and suspicious circumstances.

ii. Within 7 years of the marriage.

iii. The death is caused in relation to dowry demand.

iv. The expression of "Soon before her Death".

- It is a Cognizable, Non- Bailable, Non-Compoundable offence.

In the case of *Satvir Singh and others v. State of Punjab* and another supreme court, it was held that the abuse or brutality to which the woman is subjected should not be "long before her death" with the appeal for dowry.

However, in the case of *Raja Lal Singh v. State of Jharkhand*, the apex court has mentioned that the phrase "soon before her death" provided in section 304–B of the I.P.C. is a very versatile word, which can be interpreted as being immediately before her death or within a reasonable time before her death. The important thing here is that there should be a clear link between the woman's death and the abuse she experienced in connection with the demand for dowry.

If the wife dies within 7 years of the marriage and there is no dowry demand and there is no ill-treatment on the part of the husband and his family, then the husband and his family cannot be held liable and charged under section 304 – B of the I.P.C., in the case of *MekaRamaswamy v. Dasari Mohan and others*, by the Hon'ble Supreme Court.

In the case of *Bhagwan Das v. Kartar Singh and others*, however, it was held that if the woman is killed or committed suicide in connection with the dowry demand and it occurs soon before her death, Section 304 – B of the I.P.C. may be invoked.

In *PrahalladBudek v. State of Orissa* it was held that there should be a live link between the woman's death and the harassment and cruelty she faces in relation to the demand for dowry, and if there is no such link then Section 304–B of the I.P.C. offense against the husband or husband's relatives cannot be established. In the case of *Baldev Singh v. State of Punjab*, it was also reported that the time gap should not be much between the woman's abuse and harassment and death.

State of Rajasthan v. Jaggu Ram held that, since there is no definition of the time limit for the term "soon before her death" in any of the laws or actions, it is therefore directed that since the facts and circumstances of each case can vary, it is appropriate for the court to decide that if the time limit between the woman's death and the violence she suffered is immediate.

- **Section 498 – A** of the I.P.C. deals with The husband or relative of a woman's husband, subjecting her to cruelty. That is further stated: anyone who, being the husband or relative of a woman's husband, is subject to cruelty by such a woman shall be punished with imprisonment for a period of up to three years and shall also be liable to a fine.

Ingredients of Section 498 – A of I.P.C. are as follows:

i. The woman should be a married woman.

ii. The married woman should be the subject of the cruelty or harassment.

iii. The harassment or cruelty should be done by the husband or by husband's relatives.

iv. There should be a Mens Rea on the part of husband or husband's relatives.

v. It is a Cognizable, Non – Bailable, Non – Compoundable offence.

In the case of *Balwant Singh and others v. State of Himachal Pradesh*, the bench of 2 judges said that the person acquitted pursuant to section 304 – B of the I.P.C. can also be convicted pursuant to section 498 – A of the I.P.C. since both parts of the I.P.C. are not mutually inclusive.

In addition to bringing justice to the deceased and enhancing society's confidence in the country's legal system, the Hon'ble Supreme Court held in the case of *Pawan Kumar and others v. State of Haryana* that the wife who died within 7 years of marriage as a result of a dowry death by committing suicide was subsequently summoned to section 304 – B of the I.P.C and section 498 – A of the I.P.C.

Indian Evident Act

- Section 113 – B of the I.E.A. deals with Presumption as to dowry death. In addition, if the question arises as to whether a person has committed the dowry death of a woman and it is shown that, immediately before her death, that person has been subjected to cruelty or abuse for or in connection with any request for dowry, the Court shall conclude that that person has caused the dowry death.

The element in this section is the fulfillment of the components of Section 304 – B of the I.P.C.

In *Kamesh Panjiyar v. State of Bihar*, the court said that if there is a joint reading of section 113 – B of the I.E.A. and section 304 – B of the I.P.C., then some facts must be submitted before the court claiming that the wife has been subjected to abuse and harassment by the husband or husband's family in order to punish the accused.

However, in the case of *Sham Lal v. State of Haryana* it was said that the husband cannot be convicted under section 304 – B of the I.P.C. and also section 113 – B of the I.E.A. cannot be raised if there is no evidence of the harassment and cruelty "soon before her death".

Medico-legal aspects of dowry death

To cogitate the delicate stuff baby-faced in their routine by rhetorical experts add some of the important medicines that deserve attention are addressed here. The first is that not only the police should intervene personally in order to avoid the removal of vital evidence on the crime scene, but joint police should work immediately to report all these grievances. If a separate task force / cell square measure is established, that can also be advanced for each case's investigations. Second, where native police are insulating behind or display a waiting strategy, then the square measure of superior officers is contacted or charitable organisations are contacted to perform the correct inquiry. Media engagement together maintains a strong consciousness on the occurrence of violence.

If the victim is present at the time of the accident so arrangements will be taken to obtain a comment from a

responsible official. Dying declaration has legal legitimacy as it is believed by Indian law that every UN entity assumes that her death is imminent will say only the truth and ne'er lies. However, in view, in some issues women victims UN agency building dying statement may provide artificial data, especially if women tend to be abused for years as an option is deeply distressed or under the influence of medication or wants to protect their young people's long run. Strangely enough, the courts have not tested these things satisfactorily. The courts ne'er talk of the baby-faced looking dilemmas these plaintiffs are offering dying comments by UN organization square count. The judiciary will take a recent look at the characteristic of dying claims, especially because objective findings have questioned the integrity of a dying sentence. The give acknowledgment and priority to the scientific evidence and not the announcement of death. Furthermore, the purpose of the victim's deathbed/dying declaration is either to protect the interests of her young people or other relatives, while the medical professional or the rhetorical professional provides proof of no reason and to support the administration in the interest of the society.

Social factors and dowry death

Dowry may be a social sin, common among the higher and middle categories of the Hindu community of the Republic of India, and has been the central issue of unnatural death in freshly married women for years. Besides dowry, illiteracy, arranged marriages or marriages of love, child marriages, traditional family arrangements, oedipal ascendancy of the mother in law, insecurity and financial dependency of married couples on their spouses, near to complete dependency of women or their husbands and/or laws, drunkenness, violence and infidelity of married couples and the need for social protection among them. Dowry occupies only one end of the shore of social violence sea; within similar area square measure brutality, humiliation and molestation, physical or mental torment etc. during marriage, lady is forced into related degree unknown atmosphere and is restricted to the vulnerability network and is thus totally at the mercy of the husband and/or his family members of the UN agency..

Misuse of the laws, provisions, rights provided to the women

There are instances of abuse of these laws by women themselves, along with the creation of laws to protect them. Fake acquisitions and gross misuse of these rights have occurred in a number of cases. In many cases where demands of the Wife are not being fulfilled, and in order to harass the husband and his family, or if the marriage is strained because of any other extraneous reasons, they lodge false complaint with the nearest police station and the husband and/or his family are instantly arrested without investigations. There have also been cases of suicide during the process of their trial, because of these false charges the husband or members of his family have suffered an embarrassment.

Based on the statistics given in the NCRB Report, in 2016 the total number of reported False Cases related to Dowry Deaths in 2016 was 254 and in 2016 the total number of

reported False Cases related to the husband's or his family's cruelty to the wife was 6,745. In the case of Sushil Kumar Sharma v. Union of India, the Hon'ble Supreme Court correctly claimed by enacting the Section 498-A of I.P.C. for protection of women misused and described this provision as a "Legal Terrorism."

Conclusion

It can now be concluded that the Government of India, in accordance with the Country's Judicial Body's guidelines, has been reasonably successful in creating the most fair, cooperative, compassionate rules and laws to protect women's interests, life and dignity and to bring justice to the suffering of the complainant from abuse, cruelty and dowry deaths. Some stringent corrective measures still need to be taken to eliminate or at least curb this infamous problem of country's dowry demand, but most importantly, it requires public will and determination to reject this social and materialistic evil dowry greed.

Similarly, in order to provide justice to women and to protect them from dowry harassment in their best interests, there have been cases of misuse of the laws and protections given to help and protect them, as it is said "whenever there is light, there is also darkness." Such protections and freedoms are misused and it has happened for a reasonable time now, too. This is one of the loopholes that need to be addressed and rectified by the same noble, scholar and academic lawmakers who have laid down these rules, taking into account women's protection from the heinous crime of dowry.

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