



Dowry System in India- Its Problems and Legal Aspects

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Abstract: There is some of the stained system in our country, which is black spot in our image. Dowry system is one of those much discussed systems although it is one of the most hated systems. It is growing day by day. It is surprising. Dowry system is deeply ingrained in the social texture of our country. Giving away a daughter in marriage is called “Kanyadaan”. But in modern time it is big problem to find a good boy for girl without paying a high price for the same. Parents of highly educated boy fix the rate of dowry according to the education of the boy. Marriage is one of the scared and holy ceremonies in our society but the horror of the dowry system has made the ceremony one of the feared institutions. Dowry system is an insult to our society. Dowry system is black spot to our education and culture.

Keywords: Culture, Society, Marriage, Dowry, Education, Legal Aspects.

Introduction: Dowry that started off as a practice to give away presents to the departing daughter, usually some resources to begin her new married life, slowly assumed extraordinary propositions entered into a social evil. Bride expected to bring the “gifts” regardless of their willingness. The bride’s family could no longer have an individual say; list were prepared and sent to the girl’s house before the final agreement between the two families. The condition being that the boy would marry the girl only if the demands were met. Such a custom is being practiced not only in India but also in the other countries i.e. Bangladesh, Nepal & Pakistan. The evil is found in the almost every community.

The term dowry is defined in the Dowry Prohibition Act, “dowry” means any property or valuable security given or



agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Definition of Dowry according to our law:

According to law any person who gives, takes abets giving and taking of dowry (huge amount of cash, luxury items like cars, motorbikes, A.C. or property etc.) shall be punished with imprisonment, which may be extend to 6 months or with fine up to Rs. 5000/- or with both. Gifts given without a precondition are not considered dowry and are legal.

Law against Dowry in our constitution: In 1961, the govt. of India had passed the dowry prohibition act, making dowry

demands illegal. In 1985, prohibition rules were framed.

Reason behind demanding dowry: The reason behind this custom the poor economic condition of the people along with a lack of education, unawareness of legal rights among women and general bias against the women. Some rich family also demands dowry because they takes dowry for their social status in society.

Law against Dowry death: In India there are so many legislations despite that the problem of Dowry demand continues. The problem of Dowry has always been persistent in India and is also rising at a rapid rate and so is the offences related to dowry demand. Dowry demands can go on for years together. The birth of children and a number of customary and religious ceremonies often tend to become the occasions for dowry demands. The inability of the bride's family to comply with these demands often leads to the daughter-in-law being treated as a pariah and subject to abuse. In the worst cases, wives are simply



killed to make way for a new financial transaction—that is, another marriage.

Greed being limitless, the demands become insatiable in many cases, followed by torture of the girl leading to either suicide in some cases or murder in some. The Supreme Court has explained in this case that though the definition of 'dowry' is stated as 'property or valuable security given or agreed to be given...' demands made after marriage could also be a part of the consideration because an implied agreement has to be read to give property or valuable securities, even if asked after the marriage as a part of consideration for the marriage when the Dowry Prohibition Act 1961 was enacted, the legislature was well aware of the fact that demands for dowry are made and indeed very often even after the marriage has been solemnized and this demand is founded on the factum of marriage alone. Such demands, therefore, would also be in consideration for marriage.

Sec. 498-A whoever, being the Husband or the relative of the husband of a

women, subjects such women 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 purposes of this section, "cruelty" means- any willful conduct which is of such a nature as is likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the women or

Harassment of the women 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 is on account of failure by her or any person related to her to meet such demand.

Section 304-B of the Indian Penal Code: 304B. Dowry Death, the Section 304-B, IPC has been inserted by the Dowry Prohibition Amendment Act, 1986 with a view of combating increased menace of dowry deaths. The Supreme Court in the case of State of Himachal Pradesh v. Nikku Ram[1] interestingly started off the

judgment with the words 'Dowry, dowry and dowry'. The Supreme Court went on to explain why it has mentioned the words 'dowry' thrice. This is because demand for dowry is made on three occasions:

- (i) Before marriage;
- (ii) At the time of marriage; and
- (iii) After the marriage.

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

To invoke Section 304B of the Indian Penal Code the following ingredients are essential:

- The death of a woman should be caused by burns or bodily injury or

otherwise than under normal circumstances.

- Such a death should have occurred within seven years of her marriage.
- She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
- Such cruelty or harassment should be for or in connection with the demand of dowry.
- Such cruelty or harassment is shown to have been meted out to the woman soon before her death.

One of the important ingredients to attract the provision of dowry death is that the death of the bride must relate to the cruelty or harassment on account of demand for dowry. It is true that Section 304-B does not define cruelty. However, under explanation of Section 113-B of the Evidence Act, by which presumption of dowry can be drawn, it has been provided that 'cruelty' shall have the same meaning as in section 498-A of the Indian Penal



Code. As per requirement of clause (b) appended to section 498-A I.P.C. there should be a nexus between harassment and any unlawful demand for dowry.

If these conditions are fulfilled then a presumption acts under the Indian Evidence Act and the burden of proof shifts on the accused to prove that he is innocent. The section states:

113B. Presumption as to Dowry Death: Then the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry; the court shall presume that such person had caused the dowry death.

In the case of State of Punjab v. Iqbal Singh[2], the Supreme Court clarified the position as to why the necessity to introduce Section 113-B in the Indian Evidence Act was felt –

The legislative intent is clear to curb the menace of dowry deaths, etc. with a

firm hand. It must be remembered that since crimes are generally committed in privacy of residential houses and in secrecy, independent and direct evidence is not easy to get. That is why the legislature has by introducing Section 113-B in the Evidence Act tried to strengthen the prosecution hands by permitting a presumption to be raised if certain foundation facts are established and the unfortunate event has taken place within seven years of marriage. This period of seven years is considered to be the turbulent one after which the legislature assumes that the couple would have settled down in life. When the question at issue is whether a person is guilty of dowry death of a woman and the evidence discloses that immediately before her death she was subjected by such person to cruelty and/or harassment for, or in connection with, any demand for dowry. Section 113-B, Evidence Act provides that the court shall presume that such person had caused the dowry death.

A conjoint reading of Section 113-B of the Act and 304-B I.P.C. shows that there must be material to show that soon before



her death the victim was subjected to cruelty or harassment. Prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances'. 'Soon before' is a relative term and it would depend upon circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period soon before the occurrence. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the concerned death.

Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relatives of her husband for or in connection with any demand for dowry, such death shall be called "Dowry Death" and such husband or relative shall be deemed to have caused her death.

Punishment: Imprisonment for a term which shall not be less than 7 years but which may be extended to imprisonment for life.

Bride Burning: Bride burning is the most popular murder method. The woman is restrained in the kitchen and doused by cooking kerosene and lit by a match. Burning is popular because kerosene is cheap and readily available. The saris most Indian women wear are combustible so the murder is hard to trace and in the privacy of home. The survival rate of such deaths is also low ensuring the woman will never prosecute them. Even if she survives she typically succumbs to infection in the hospital. Even escape doesn't ensure safety. Divorce is still taboo in much of the subcontinent, seen as a shame upon the family honor.

Relation between Dowry and Domestic violence against women: This form of domestic violence is most common to all. It is one of the reason for it being so prevalent weaker than the males. According to the United Nation population found report, around 2\3 of married Indian women are

victims of domestic violence and as many as 70% of married women in India between the age of 15 and 49 are victims of beating, rape or forced sex. In India more than of the women suffer from domestic violence.

The most common cause for women stalking and battering is dissatisfaction with the dowry and exploiting women for more of it. The greed for dowry is major factor of domestic violence against women in rural areas. There have been gruesome reports of young bride burnt alive or subjected to continuous harassment (hitting or beating) for not bringing home the amount of demanded dowry.

There are some more reasons for domestic violence as are arguing with partner, refusing to have sex with him, neglecting children, going out of home without telling her husband, not cooking properly or on time, indulging in extra martial affairs, not looking after in-laws etc. In urban areas there are many more factors which lead to differences in the beginning and later take the shape of domestic violence. These include more income of a working woman

than her partner, her absence in the house till late night, being more forward socially etc.

Law against Domestic Violence: In 1983, domestic violence was recognized as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code (I.P.C).the section deals with cruelty is deal with by this law-

- Conduct which is likely to cause grave to the life, limb or health of a woman.
- Conduct is likely to drive a woman to suicide.
- Harassment with the purpose of forcing the woman or her relatives to give some property or money.

Punishment for Domestic violence: The punishment is imprisonment for up to 3 years and a fine. The complaint against cruelty need not be lodged by the person herself. Any relative may also make the complaint on her behalf.

A woman can make her husband to execute a “Bond to keep peace” or a “Bond



of good behavior” through the Executive Magistrate who can order the husband to put a stop to domestic violence. The husband can also be asked to deposit securities (i.e. money or property) that will be forfeited if he continues to act violently.

Female Feticide: Dowries have become such a burden that many families are desperate to avoid having girls. Pregnant woman can determine the sex of the baby and abort the female fetuses with ultrasound technology.

In 2011 Census showed there are just 940 women for every 1000 men in India. Legislation against sex determination tests was passed nearly a decade ago. But the practice is still widespread.

Indian Legislation: Dowry Prohibition Act, 1961 (amended in 1984 and 1986):-bans paying and receiving dowries.

Pre-Natal Diagnostics Techniques (Regulation and Prevention of Misuses) 1994(amended2002): bans sex determination tests.

The Law and the Flaw: There are laws on the books condemning dowry murder but they don’t work because those who are to upload the often turn a blind eye. The police and court is a product of society that generally believes in the inferior status of woman. Other believes dowry murder to be private family matter.

Dowry laws don’t work because of the deep rooted history of gender inequality in all society. No matter what new laws come out, until the mentality changes, nothing changes. Women must be considered and treated as equal to men and worthy of the same respect

Prevention of Dowry: Dowry system is against the law of equality of men and women. It is crime to give or take dowry. But these are openly violated. There are thousands of cases of dowry every year few offenders are actually punished.

It shows that laws alone are not enough. Besides law, we need more social awareness and effective social measures. We should create a movement and strong public opinion against the dowry system.



The movement should be taken villages and every nook and corner of country. More leaders, social groups, men and women should be involved in the movement against the dowry evil. People who practice dowry system should be socially boycotted. Women organization should hold demonstration against such people.

Young men and women should be made to take a oath against dowry evil. The women should refuse to marry the man who demanded dowry. More and more women should be encouraged to take employment and become economically independent.

The percentage of literacy among girls and women are very low. This rate should be increased more schools, colleges and training institution for women should be opened. Spread of literacy and education among women can prove a great weapon against dowry. Women should know their rights, privileges and strengths. They should stop thinking in terms of a weaker sex. They should stand on their own feet and fight for their rights. Now there is much more

awakening among women than before. But it is just a beginning. The young man should frankly reject the demand of dowry from their parents. The evil should be fought both on the level of law and society

Conclusion: We see that in the Indian scenario there are legislations like the Dowry Prohibition Act, the Indian Penal Code and also legislations like The Protection of Women from Domestic Violence Act are in place but still the problem of dowry demand continues, thus it is high time that the enforcement of these legislations should be strengthened. The dowry based marriages in Indian society are imposing a heavy burden on the bride's parents, especially on those who are not rich. The practice of dowry is glaring in parts of India where the status of women is less important than dowry. All these do indicate how the positions of women have brought down in Indian society. Once women become equal inheritors, parents will not have to depend only on sons and daughters-in-law for old age security because daughters too will be empowered to take care of their parents. This will make



families less male-centric encourages those parents who can afford it to ensure that their daughter has a house , room or even a jhuggi in her own name so that she is never rendered homeless can never thrown out of their houses. Now the government has enacted a law to check the system of dowry in our country. Demand for dowry has become a cognizable offence. A groom demanding dowry can be criminally prosecuted, but it is not enough. So, lot of work is to be done by our government and society to kill dowry evil and we all waiting for dowry free system.

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