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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **DOWRY AND DEATH IN INDIA A** **CONTEMPORARY ANALYSIS**

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## **Abstract:**

In India, dowry is a property or other significant security that one party gives or agrees to give to another party during a marriage. In India, the parents of a girl who is getting married to the groom's family are usually the ones who agreed to pay dowry. According to the "Dowry Act," receiving dowry is a felony and is not permitted Act 1961". However, it has been discovered through this investigation that the act that is enforced in this country due to a number of restrictions within it, for the dowry prohibition, was unsuccessful. A significant dowry death is a social problem where newlyweds kill themselves or are murdered by their husbands because of their unpleasant demand and aggressive conduct.

**Key Words:** Dowry, Death, Prohibition, Offence, Social Evil.

## **Introduction:**

Dowry is a word that has been prevalent among Indian households. In India dowry refers to a attribute or any valuable security that is given or agreed to be given. It is a practice that has become a parasite among the Indian society which has eroded pulchritudinous institution of marriage However, as per



this research, it has been found that the act, which is imposed in this country for the prohibition of dowry, was failed due to various limitations within it. Dowry is a social evil and has become a status symbol among all. As per the literature findings, the major reason behind the dowry death issues within India is the lack of awareness regarding the legislation associated with girls' education and job opportunities. The main aim of this research is to analyses the current state of the dowry death in India and to determine the efficacious result in the existing legislation in prevailing dowry death. The literature, decreasing rate of dowry deaths in India is mainly caused by regular amendment of legislative structure . Even through there are effective provisions but still it is existing and should be grievous in account of punishment for a successful abolishing dowry death in India

## **LEGAL FRAMEWORK IN INDIA FOR PROHIBITING DOWRY**

Indian Penal Code, 1860

Dowry Death (Section 304 B)

Where the death of a woman is caused by any burns of bodily injury or occurs otherwise than under normal circumstance 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 relatives shall be deemed to have caused her death

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

### **Essential Ingredients Dowry Death:**

The death of a woman should be caused by burns Or bodily injury nor otherwise under normal Circumstance Death should have occurred within 7 Years of her marriage. The woman must have been subjected to currently or harassments by her husband of any Such relative of her husband cruelty or harassment should be or in connection with, any demand for dowry Such cruelty or harassment should have been subjected soon before her death The death of women caused under the above circumstance, the husband husbands relative Will be presuming to have caused or dowry death and



be liable for the offences, unless it is proved Vemun Venkateshwara Rao V. state. Of Pradesh 1992 cri LJ 563 AP Andhrapradesh The court has laid down the following guideline 304(B) That there is a demand of dowry and harassment by the accused That the deceased had died. That the death is under unnatural circumstances Husband or relative of husband subjecting to cruelty (sec 498 A) women Bhoora sigh Y state 1993 cri. LJ 26364

It was held that the husband and in-laws subjected the wife the cruelty for bringing insufficient dowry and finally burnt her down thereby inviting a sentence of three years Rigorous imprisonment and to fine of & soot for an offence committed under Sec 498.A of Indian Penal code”

### **Code of criminal procedure, 1973**

Dowry death is a non- bailable offence, that is offences under which statements by the courts is required to arrest a person and the person. Can't be acquitted without court's order and cognizable that is that the police do have the authority to arrest any person. Without issuing any warrant along with the authority to carry out the investigation with or without the permission of the magistrate of a court. According to Sec 41 of the Code of criminal procedure 1973 the police. Officer, while arresting any person without the warrant be satisfied with the complaint registered against a person and fulfill all the provision

Indian Evidence Act, 1872

Presumption as to dowry death (sec 113B)

When the question is whether a person has Committed 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. For the purpose of this section dowry death' Shall have the same meaning as in section, 304B of the Indian penal code (45 of 1860]

Mustafa Shahadal Shaikh V. the state of Maharashtra (2012).

The ratio decidendi of the court was stated that the language used under Sec 304-B`soon before death does not ascribe any definite time frame as such under both the Indian Penal Code as well under sec 113B Indian Evidence Act

Accordingly, the term “Soon before death’ could be determined by courts depending upon the facts & circumstances of the case however it would imply that the interval should not be much between

the cruelty or harassment concerned and the death in question. *Hansraj V. State of Punjab* In this case held that term normal circumstances. Apparently means not by natural death

*Rameshwar Das v. state of Punjab*, 2008

In this case SC held that, pregnant women, woman would not commit suicide unless Relationship with her husband comes to such a passed that she would be compelled to do so, accused is liable to be convicted on the failure to prove his defense

Dowry Prohibition Act, 1961

Penalty for giving and taking dowry

According to sec 3. If any person after the Commencement of the Act gives or takes abets the giving or taking of dowry shall be punished. With an imprisonment for a term not-less than five years and with fine which shall not be less than fifteen thousand rupees or the amount of the value of dowry, whichever is more

Penalty for demanding dowry (sec 4)

According to Sec 4, demands dowry if any person directly or indirectly from the parents, relatives or guardians of the bride or the bridegroom shall be punished with an imprisonment of not less. Than six months and which shall extend to two years and with fine which. Extend to ten thousand rupees may extend to ten thousand rupees *Pandurang shivram kawathkar V. state of Maharashtra* 2001 Cv LJ 2792 (sc) That the mere demand of dowry before marriage Is an offence.

*Bhoora Sigh V State of uttar Pradesh* 1993 criLj 2636

The court held that the deceased had before. Being set on fire by her in-laws written a letter to her father that she was being ill treated, harassed and threatened with dire consequences. For non-satisfaction of demand of dowry. Thus an offence of demanding dowry under sec 4 had been committed

Ban on advertisement (sec 4-A) According to Sec 4A, the advertisement in any newspaper, journal or through any other medium or a share in the property. Business, money by any person in consideration for marriage shall be punished with an imprisonment which may extend to five years or with fine which may extend to fifteen thousand rupees.

Cognizance of offence. According to section 7, A Judge not below the rank of a metropolitan Magistrate or judicial Magistrate of first class shall try an offence under this act. The court shall take

cognizance of the offence only on the report by the victim the parents or Relatives of the victim, police report or on its own knowledge of the facts of the offences

According to sec 8 Of. Dowry prohibition Act ,1961 Certain offences under this act shall be cognizable, non – bailable and non- compoundable

Analysis of other states (dowry death)

Ayesha Khan who died of suicide by jumping in Sabarmati river over dowry and harassment, her husband got 10 years jail time

Arif Khan, husband of Ahmedabad woman Ayesha, who died of suicide in February 2021, has been sentenced to 10 years imprisonment by Ahmedabad sessions court. Ayesha had recorded video right before jumping off in the Sabarmati river in Ahmedabad. In the video that had gone viral on social media back then, Ayesha had accused her husband and his family of dowry and harassment. The court noted that in order to stop the social evil of domestic violence, the accused should not be spared. Arif's voice test was also carried out which was also considered an importance evidence.

Ayesha had also called her husband before jumping into the Sabarmati River. Police had recovered 70-minute call recording between Ayesha and Arif in which the latter was heard yelling at her and saying, "Go die and send me a video of your death."

A week after Ayesha's death, more details had emerged that revealed her husband Arif had an extra-marital affair with a Rajasthan girl. Ayesha's husband Arif use to call up his girlfriend and indulge in vulgar conversations with her in the presence of Ayesha, reports have said. Despite harassment from her husband, Ayesha decided to remain quiet and not confront her husband.

Reportedly, Arif had confessed to Ayesha that he had another woman in his life and had maintained that he would not leave her for Ayesha. Earlier in 2020, Ayesha had also filed a dowry harassment case against Arif and his family at the Vatva Police Station in Ahmedabad.

She also called her parents before committing suicide. Her parents desperately tried to convince Ayesha to change her decision but they were unsuccessful. She told her mother, "All that has happened his enough, I am frustrated, I can't tolerate it anymore, He (her husband Arif) wants freedom, I will give him the freedom."

Her suicide has sparked several strong reactions on social media. Authorities had recovered the body and a case has been registered against her husband in the matter. He was later arrested in March 2021.

While the overwhelming majority of people empathised with the 23-year old, there were some who complained that she chose Haram over Halal.

53,44,538 cognizable crimes composed of 17,69,308 Indian Penal code(IPC) crimes and 35,75,230 Special & Local Laws (SLL) crimes reported, representing 3.4% increase over 2000 (51,67,750).

IPC crime rate 172.3 per lakh of population compared to 176.7 per lakh of population in 2000 recording 2.5% decrease in 2001 over 2000.

SLL crime rate 348.1 per lakh of population compared to 338.9 per lakh of population in 2000 recording 2.7% increase in 2001 over 2000.

Pondicherry UT reported the highest crime rate (417.7) for 1,00,000 population for all IPC crimes, 2.4 times the national crime rate of 172.3. Among States, Kerala reported the highest crime rate at 326.2.

West Bengal reported highest crime rate (1,487) for all SLL crimes, 4.3 times the national crime rate of 348.1.

3 IPC crimes, 7 SLL crimes reported on an average in 1 minute in the country.

156 cases of Deaths due to negligence, 100 Murders and 61 Kidnapping & Abduction cases reported each day in the country.

26,71,540 persons were arrested under IPC cognisable crimes and 41,31,731 persons were arrested under SLL cognisable crimes. Thus overall 68,03,271 persons were arrested under IPC and SLL cognizable crimes. On an average, 1.5 arrests per IPC case and 1.2 arrests per SLL cases.



## Violent Crimes

Incidence Rate 2000: 2,38,381    2001: 2,30,930    2000: 23.8    2001: 22.5

Jammu & Kashmir (50.3), Arunachal Pradesh (36.7), Rajasthan (36.6) and Kerala (36.3) reported high violent crime rate (incidence per 1,00,000 of population) compared to Punjab (11.9), West Bengal (11.3) and Sikkim (10.7),

The frequency of Violent Crimes in Delhi was comparatively lower (one case in 13 reported IPC crimes) compared to Manipur and Meghalaya which reported 1 violent crime in 3 IPC crimes against National Average of 1:7.7.

Uttar Pradesh reported 21 per cent (7,601 out of 36,202) Murder cases. 21 per cent (8,019 out of 38,636) of murder victims were Murdered by fire arms in the country

### Crime against Women

#### Incidence Rate

2000: 1,41,373    2001: 1,43,795    2000: 17.0    2001: 14.0

Uttar Pradesh reported 14.1% (20,227 out of 1,43,795) cases, highest crime rate in Madhya Pradesh (24.1).

Among 32 mega cities, Delhi city reported 26 per cent (326 out of 1,261) of Rape cases and 36 per cent (820 out of 2,278) of Kidnapping & Abduction of Women cases.

78% increase in Importation of Girls cases (114 compared to 64 in 2000) and 11.6 per cent decline (9,746 compared to 11,024 in 2000) in Sexual Harassment cases over the previous year. Orissa reported 239.1% increase in Sexual Harassment cases (458 compared to 135 in 2000).

73% of Importation of Girls cases (83 out of 114) reported from Bihar State. 32% Dowry Death cases (2,211 out of 6,851) from Uttar Pradesh.

In 84% of Rape cases (13,504 out of 16,075) Offenders were known to the victims. 32% of them (4,324 out of 13,504) were neighbours.

67% conviction in Sexual Harassment cases (4,716 convictions out of 7,035 cases tried) and 32.5% in Dowry Death cases (1,653 convictions out of 5,092 cases tried)

## **CRUELTY BY HUSBAND AND HIS RELATIVES**

Acts of cruelty by a woman's in-laws are the most frequently reported crimes Against women. Nevertheless, Flavia (1988, np), based on experiences in Mumbai, States that "Wife-beating is the most under-reported crime in the country." Domestic Violence is also the almost-invariable prelude to cases of dowry murder. Umar observed that "bride-burning is an extreme form of wife-beating and domestic violence" Whether "wife-murder is adequately described As a fatal form of domestic violence"

Bihar, Madhya Pradesh, Tamil Nadu, and Uttar Pradesh, are also states where few Cases are registered with the police.

The Kollam Additional Sessions Court's recent sentencing of 10 years in jail for Kiran Kumar, the husband of 22 year old Vismaya who died by suicide after months of abuse over dowry, is seen by some as the legal system's and society's eventual step up to address the social evil of dowry. In a shocking reveal of events, the reports of the case show that Vismaya's family knew about the abuse and had intervened in the hope of resolving the situation. Vismaya herself had accepted that 'it was her fate and she had to deal with it'.

The societal sanction against a woman who is anything other than a 'good wife' is so strong that many women believe abuse is a normal part of married life. Legislations have largely remained ineffective. In 2022, three sisters and their children in Jaipur city of Rajasthan were found dead in a well. They left behind a message blaming the family they had married into for their death. Earlier in the same year, a court in southern India found a man guilty of abusing his wife over dowry leading to her death. While creating emotional and financial stress on the girl's family, the dowry system also reduces the value of a woman in Indian society. While sons are welcome, the birth of a daughter is unwelcomed as It foreshadows the expenditure that the family would incur while marrying her off.

## **Ingredients of Dowry Death**

The following are the key elements that comprise the offence of dowry death under Section 304B IPC:

Death of a woman within seven years of her marriage

Death caused by burns or bodily injury or otherwise than under normal circumstances; death caused by cruelty or harassment by the husband or his relatives in connection with any dowry demand. Such cruelty or harassment must have been meted out to the woman shortly before her death. If all of these factors are present, the husband or his family who exposed the wife to such cruelty or harassment might be prosecuted with dowry death under Section 304B of the Indian Penal Code. The offence is punished by imprisonment for a term of not less than seven years, but which may be extended to life imprisonment. Dowry murder is a non-bailable and punishable offence.

### **Landmark Cases related to Dowry Death**

The case of *Kamesh Panjiyar vs State of Bihar* is an important one to understand the meaning of the term “soon” under this section. The case involves a dowry death where the husband and his relatives demanded a she-buffalo as additional dowry and abused the deceased when the demand was not met. The wife was later found dead with a neck injury, and the session court declared it as a case of dowry death, sentencing the husband to 10 years in prison. The Supreme Court upheld the decision and stated that proving cruelty inflicted on the woman soon before her death is enough to establish dowry death under Section 304B, and the punishment passed by the session judge was justified.

In the case of *Paniben vs State Of Gujarat*, the Supreme Court relied on the dying declaration of a deceased woman to convict her mother-in-law of dowry death. The accused had poured kerosene oil on the woman while she was asleep and set her on fire. When she woke up, she cried for help, and her husband and other relatives came to her aid and took her to the hospital, but her injuries were severe and she could not be saved. In her dying declaration, she stated that her mother-in-law had set her on fire.

In *Pawan Kumar vs Haryana*, the victim, Urmil, returned to her parents' house within a few days after her marriage owing to dowry demands for a refrigerator, scooter, and other items. Her husband and in-laws treated her cruelly and harassed her, resulting in her death. The spouse was found guilty under

Sections 304B, 306, and 498A of the Indian Penal Code and sentenced to jail and penalties. The court ruled that the demand for dowry is an offence in and of itself, and that the desire to buy a refrigerator or bike falls within the scope of seeking dowry. The other two appellants were found not guilty.

The defendant In State Of Punjab vs Gurmit Singh was accused under Section 304B for causing the death of Gurjit Kaur, Paramjit Singh's wife. The respondent claimed he could not be prosecuted since he was not a relative of the deceased. The court ruled that because he did not meet the description of a relative, he could not be prosecuted under Section 304B, but he might be tried under other provisions for any offence committed. The case examined the term 'relative' and decided that only individuals connected by blood, adoption, or marriage may be held responsible under Section 304B, while others can be held guilty under Provision.

## **Conclusion and Suggestions**

Dowry system is good unless and until it is considered as a gift given to the bride by her parents. If the groom's parents are demanding money to get married as a dowry then that is completely evil and Dowry and it's illegal as a practice is deeply rooted in Indian Society and it can't be totally eradicated. The major reason that this practice can't be eradicated is the mentality, thought and mindset. One of the basic functions of a dowry has been to serve as a form of protection for the wife against the very real possibility of ill treatment by her husband and his family. Women should be encouraged to become self-dependent and efforts should be made to make education accessible to every girl child. Awareness campaigns should be organised at school and local levels. People should be encouraged and should know not to practice such traditions which harm women rather treat women. Social practices like marriage within one's caste or clan should be abolished so that there is the availability of a wide range of choices and women are not forced to enter into marriage. This social evil can only be eradicated when there would be a change in the mentality of the people. When people might understand that giving and taking dowry is like selling your daughters and sons may be, then the roots of the practice would start eroding, and the practice shall get totally eradicated.

Loopholes exist in tandem with legislations. Evading the legal framework thus becomes easy and rampant. A thorough change is essential in the societal framework which remains hospitable to dowry transactions. While a groom's family should not use the dowry system to extort money from the bride,



anti-dowry laws should also not become a vehicle for a bride to torment the groom's family. Socialization since childhood and education in school should emphasize gender equality and raise awareness against dowry. A fundamental change in social mindset and social attitudes is the ardent need to purge India of dowry evils.

