

Dowry Death- A Socio Legal Study

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ABSTRACT

Endowment passings are savagery by the spouse and his family with an intention of coercion of blessings and other requested every once in a while against a lady. The unnatural passing of as of late wedded lady imperative to ladies' second in the Indian culture through the importance of share has changed after some time however provocation and cold-bloodedness have continued as before somewhat. The security of ladies from this social evil is the duty of the state. The government has ordered numerous laws concerning the denial of endowment like the Dowry Prohibition Act, 1961, etc. On the suggestion of the 21st law commission report certain Penal arrangements were embedded. Numerous instructive and mindfulness program was controlled by the legislature and non-administrative association with the expectation to the lesser down the pace of endowment demise. To manage this merciless sort of social detestable area 304 B Dowry demise, Section 498A (Cruelty by Husband or parents in law, for example, aggressive behavior at home) 113 B (Presumption as to endowment demise) was fused in Indian punitive laws around 1986 to annihilate the aggravation of share passing.

There is the Dowry Prohibition Act, 1961 which is sanctioned, and the laws have been made more severe specifically, Section 304 B (Dowry death) and Section 498 A (Cruelty by husband or relatives) have been incorporated into the Indian Penal Code (I.P.C.) and Section 113 B (Presumption as to dowry death) have been made aspect of the Indian Evidence Act (I.E.A.) to kill or possibly drop down this shocking demonstration of endowment framework and related passing's. This examination paper has put forth an attempt to investigate and assess lawful arrangements which have been adjusted and received by the Indian Legal System to limit aggravation of Dowry Deaths, feature escape clauses and alongside its improvement in the lawful framework and the general public and to highlight the accessible cures as likewise how to further enlarge such cures to be valuable to the truly distressed gathering.

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INTRODUCTION

Marriage as a social foundation is perceived as a humanized social request where two people, fit for going into the association, have sworn themselves to the institutional standards and qualities and vowed to one another a solid attachment to support and keep up the conjugal commitment. It functions as a root for the duration of humankind. Despite the apparent multitude of guarantees made at various events of wedding service that the individual contrary qualities and attitudinal contrasts for non-modification or refusal for change may conclude, yet certain conditions happened where the spouses and his families request for example Dowry which isn't satisfied and now and again a distorted feeling of retribution happened. Dowry implies the exchange of parental property at the marriage of a girl. Dowry is an installment of money or blessings from the lady of the hour's family to the husband to be's family upon marriage. It might incorporate money, adornments, electrical machines, furniture, porcelain, utensils, vehicle, and other family unit things that help the recently hitched couple to begin their life venture. Share is an old custom, and its reality may well envision records of it. Settlements keep on being normal in numerous pieces of the world and are here and there utilized as a state of the agreement that on the off chance that not acknowledged, at that point the wedlock concluded, especially in parts of Asia and North Africa. The custom of share is profoundly established in Indian culture throughout the long term, it has transformed into a social danger, excessively dug in and underhanded to be handled by reformers and officials. Even though the endeavors for the annihilation of the settlement practice return to over a century, it has maybe become the most disturbing social issue during the most recent twenty years or so as shown by the developing brutality against ladies rising out of issues identifying with share. It is commonly perceived that settlement, in its unique structure, did not depend on avarice and coercion as it regularly the case today yet present a badge of affection and respect for the groom. The term Varadakshina, referenced in the Hindu Shastras, was a Dakshina of an willful nature without which the praiseworthy demonstration of Kanyadaan would not be finished. The function of the lady of the hour's folks was to give security and remuneration to legacy rights to the girl to empower her to lead a stately and agreeable relationship with her significant other and his family.

Relationships are made in paradise in reality, however, relative, sister-in-law, spouse, and different family members are in effect effectively engaged with the disintegration of marriage for the desire of dowry. Dowry passing, murder-self destruction, and lady of the hour consuming are consuming

side effects of impossible to miss social affliction and are the deplorable improvement of our general public. During the most recent couple of many years, India has seen the dull wrongs of the dowry framework in a more intense structure in practically all pieces of the nation since it is polished by pretty much every part of society; regardless of religion, station, or doctrine to which they have a place. It is a very nearly merely everyday event that not just wedded ladies are badgering embarrassed, beaten, and compelled to end it all and abused however thousands are even scorched to death since guardians can't fulfill dowry needs.

In India, the dowry framework puts an incredible monetary weight on the lady of the hour's family. The officials, taking note of reality and outcome of the issue authoritative measures to connect the provisos the law just as to sanction new arrangements to make the law balanced and successful. The Dowry Prohibition Act, the principal public enactment to manage the social evil of dowry, was passed in 1961. The object of this demonstration is to preclude giving and taking of dowry. The demonstration sets out various preventive and corrective arrangements at the same time, as could be portending, the destinations have not been accomplished. Even though the dowry issue as such may not be the fitting objective of criminal law, the brutality associated with a dowry, once in a while lethal, is absolutely inside the practical area of criminal law. Because of the fast pace of dowry-related passings and disappointment of dowry enactment, which brings about certain significant and procedural changes in law criminal law as Criminal Law Amendment Acts, 1983 and 1986. In the Indian Penal Code, two new offenses have been made under segment 304-B and 498-A. The offense under Section 304-B called as the Dowry passing though Section 498-A called as Husband or relative or spouse of a lady exposing her to pitilessness, Code of Criminal Procedure incorporates Section 174 and 176 arrangements with the examinations and investigations into the reasons for unnatural passings by police and judge individually and in Indian Evidence act, new Section 113-B called as an assumption in instances of dowry demise that the individual who is appeared to have exposed the lady to brutality or provocation soon before her demise.

LITERATURE REVIEW

The Dowry System in India is connected with the Marriage Foundation. Be that as it may, in contrast to the present time dowry was a deliberate blessing in the old opportunity to the little girl and her spouse which in the present situation has become a contingent dowry. The old content and writing portray and recommend that wedding service was one of the significant customs and one

of the primary services in an individual's life, practically necessary and official for all the Hindu men as a rule and all ladies specifically, however, there is no notice of Dowry System in those writings and writing. During the Vedic time frame, marriage was a heavenly bond that was favored by the Gods and Goddesses themselves and this blessed bond couldn't be broken by such human activities. There were some extremely essential and straightforward standards that individuals followed for the thought of the marriage yet there is still no notice of Dowry. Writers of writing devoted towards the composing worried about dowry framework development in India show that in the past the Daughters were not having any privileges of legacy and were denied of this right, just the child's had the privilege of legacy and in the long run, just the children acquired their dad's property. In this situation, the guardians of the little girl during the time of her marriage out of sheer love and love used to blessing some aspect of their cash and gems to her, which have begun and set off the Dowry System in the country.

Dowry Deaths

Dowry Death can be characterized as an unnatural demise of the spouse because of interest for dowry by the spouse and additionally his family. Dowry can incorporate anything from cash to resources like gems, mobile and relentless property, and so forth. Ladies are either slaughtered by the spouse or on the other hand his family if their interest, voracity, and desire for dowry are not satisfied or the lady ends it all since she was unable to confront the disturbances any longer over the satisfaction of the dowry. It is additionally another approach to begin or push the spouse's profession or to satisfy the family's requests for creating social materialistic necessities. It is a plain voracity of the spouse and his family to request dowry in any case this egregious practice would have halted long back. With spending years cases identified with dowry passings in India are continuously expanding. Too, instances of brutality towards the spouse by a husband or his family members are expanding which is unmistakably brought about by the interest for dowry and the spouse's powerlessness to satisfy it. As indicated by the measurements given in the NCRB Report, 20162, the absolute number of detailed cases identified with Dowry Deaths in the year 2016 were 7,621, and the absolute number of announced cases identified with cold-bloodedness by the spouse or his family members to the wife in the year 2016 was 1,10,378. India holds the most noteworthy number of Dowry Death cases in the World. Another glaring issue that surfaces with the laws set down to shield ladies from this remorseless act is that abuse of the same laws by the spouse or her

family to badger and extortion the spouse or his family, which is likewise should have been managed quickly.

DISCUSSION

LEGAL REMEDIES FOR A DOWRY VICTIM IN INDIA

After many crimes related to Dowry and demanding the need for Proper Legal Remedies time to time amendments and changes in the laws have been made to provide proper legal support to the victims of Harassment / Death/cruelty relating to the Dowry System. With the support of provisions mentioned in The Indian Penal Code., The Code of Criminal Procedure., Indian Evidence Act., and The Dowry Prohibition Act. The law provides proper legal support and justice to the aggrieved.

Section 304 – B of the I.P.C. deals with Dowry Death. That further says:

(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.

(2) 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 life.

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

1. When the death of the woman is caused under abnormal and suspicious circumstances caused by burns or any other bodily injuries.
2. Within 7 years of the marriage.
3. The death is caused about demand dowry.
4. The expression of "Soon before her death".

It is a Cognizable, Non – Bailable, Non – Compoundable offense.

In Case of *Surender Singh V. State of A.P. (2020,S.C.)*[1]

Area 113-B of the Indian Evidence Act, 1872 accommodates assumption as to dowry passing. At the point when the inquiry is whether the dowry demise, specifically, the passing pondered under Section 304-B of IPC has been submitted by an individual, if it is demonstrated that soon before her passing, the lady was oppressed by such individual to mercilessness or provocation, for

regarding, any interest for dowry, the Court will "assume" that such individual had caused the dowry passing.

It is, no uncertainty, a rebuttable assumption and it is available to the spouse and his family members to show the nonappearance of the elements of Section 304-B of IPC.

Court saw that it is applicable to take note of that it isn't sufficient that badgering or brutality was caused to the lady with an interest for dowry sooner or later if Section 304-B of IPC is to be summoned however it ought to have happened "soon before her demise".

The seat held that the indictment had demonstrated the blame of the denounced's and set up the above-expressed 5 elements of Section 304-B IPC.

To get back charge under Section 304-B of IPC, the indictment is needed to set up that the passing of the lady has been brought about by consumes or real injury or in any case than under typical conditions inside seven years of her marriage and soon before her demise, the lady is exposed to savagery or provocation by her significant other or his family member.

In the current issue, the way that the episode had happened 17 years prior and denounced 1 got remarried and needs to care for his youngsters including the kid brought into the world through the expired and his old matured guardians, subsequently, Court took a tolerant view as to the decrease of discipline.

In like manner, the current criminal allure was permitted.

Section 498 – A of the I.P.C. deals with Husband or relative of husband of a woman subjecting her to cruelty. That further says:

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

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

1. The woman should be married.

2. The married woman should be the subject of cruelty or harassment.
 3. The harassment or cruelty should be done by the husband or husband's relatives.
 4. There should be a Mens Rea on the part of the husband or husband's relatives.
- It is a Cognizable, Non – Bailable, Non – Compoundable offense.

A complaint under Section 498-A — Period of Limitation

In Case of Arun Vyas v. Anita Vyas,[\[2\]](#)

According to Section 468 CrPC, a grievance asserting commission of an offense under Section 498-A can be documented within 3 years of the supposed episode. In any case, Section 473 CrPC empowers the Court to take the insight of an offense after the time of impediment if it is fulfilled that it is essential so to do in light of a legitimate concern for equity.

The pith of the offense in Section 498-A is mercilessness. It is a proceeding with the offense and on each event on which the lady was exposed to mercilessness, she would have another beginning stage of restriction.

Arnesh Kumar v. the State of Bihar,[\[3\]](#)

In an undertaking to guarantee that cops don't capture the blamed superfluously and Magistrate don't approve detainment calmly and precisely in cases under Section 498-A IPC, the Court gave certain bearings (nonetheless, the headings apply likewise to different situations where the offense is culpable with the detainment of not over seven years) which include:

- (a) Police officials not to naturally capture the charged when a case under 498-A IPC is enrolled. They ought to fulfill themselves about the need to capture under boundaries spilling out of Section 41 CrPC (the judgment sets out the boundaries).
- (b) Police officials will fill the agenda (containing determined sub-provisions under Section 41(1)(b)(ii) CrPC) and outfit the reasons and material requiring the capture.
- (c) The Magistrate will approve confinement simply subsequent to recording its fulfillment on the report outfitted by the cops.
- (d) If the cops neglect to conform to the headings, they will be subject to departmental activity just as discipline for scorn of Court.
- (e) Failure of the Judicial Magistrate to conform to the headings will deliver him a subject for departmental activity by the suitable High Court.

INDIAN EVIDENCE ACT

Section 113 – B of the I.E.A. deals with Presumption as to dowry death. That further says:

When 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 has been subjected to such person to cruelty or harassment for, or in connection with, any demand for dowry, the The court shall presume that such person had caused the dowry death.

The ingredient of this section is the fulfillment of the ingredients of section 304 – B of the I.P.C.

In the case of Keshab Chandra Pandey v. State, [4]

The Court held that assumption under Sec 113B of the Indian Evidence Act will be raised distinctly on the confirmation of the accompanying fundamentals: "

- (i) Whether the blamed has submitted the dowry demise for a lady. So the assumption can be raised if the blamed is being gone after for an offense under s 304B, Indian Penal Code.
- (ii) The lady was exposed to remorselessness or provocation by her significant other or his family members.
- (iii) Such remorselessness or provocation was for or regarding any interest for dowry.
-](iv) Such mercilessness or provocation was soon before her demise".

THE DOWRY PROHIBITION ACT, 1961

The whole of the Dowry Prohibition Act, 1961 is prepared, equipped and developed in order to provide relief to the victims of the dowry cases in the country. The entire act solely fulfills the purpose to protect the woman's sufferings from dowry harassment and cruelty.

It contains a total of 10 sections of which following are the heading of each section:

- 1) Section 1 – Short title, extent, and commencement
- 2) Section 2 – Definition of "dowry"
- 3) Section 3 – Penalty for giving or taking dowry
- 4) Section 4 – Penalty for demanding dowry
- 5) Section 4A – Ban on advertisement
- 6) Section 5 – Agreement for giving or taking dowry to be void
- 7) Section 6 – Dowry to be for the benefit of the wife or her heirs
- 8) Section 7 – Cognizance of offense

- 9) Section 8 – Offences to be cognizable for certain purposes and to be non-bailable and non-compoundable
- 10) Section 8A – Burden of proof in certain cases
- 11) Section 8B – Dowry Prohibition Officers
- 12) Section 9 – Power to make rules
- 13) Section 10 – Power of State Government to make rules

As it can be seen that this Act is drafted, keeping in mind the interest of all areas of society and law in order to protect and enhance the status of dowry victims which may be leading them to death, suicide, harassment, or cruelty.

It is understood that the word “Dowry” is a social evil, but as it can be seen in section 6 of the D.P. Act which says “Dowry to be for the benefit of the wife or her heirs”, here we should understand that Dowry is simply a sum of property (whether it is money or any other property) given by her parents or her parents’ family out of sheer love and affection to protect the social and financial interest of a woman and which is not social evil. In-fact the social evil is the “demand” of dowry by the husband or his family, faced by the wife and her family.

In Shanti v State of Haryana^[5]

Where the passing occurred inside seven years of marriage, the parents-in-law of the expired didn't advise perished's folks about the demise however speedily incinerated the perished. The arraignment prevailing with regards to setting up pitiless treatment towards the person in question. The demise couldn't be supposed to be regular passing and the assumption under s 113B of the Evidence Act was pulled in. The Supreme Court held that "The savagery or badgering ought to be met to the casualty soon before the casualty's demise to bring under this assumption. For a situation, there was a question between parties with respect to dowry, and that spouse, was sent back to her parent's home and was again reclaimed to her marital home after a 'panchayat' which was held to determine the contest. This function happened 10-15 days preceding the event of the occurrence as the passing of the expired. Nonetheless, there was no proof, which shows that she was treated with pitilessness or hassled with the interest of dowry during the time between her reclaimed home and her terrible end. In these conditions, the assumption for dowry demise can't be raised. The court held that the assumption of 113B couldn't be acquired".

Bajnath & Others v. State of Madhya Pradesh [6]

Supreme Court expounded that, “One of the essential ingredients of dowry death under Section 304B of the Penal Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the court will presume that the accused has committed the offense of dowry death under Section 113B of the Indian Evidence Act”.

CONCLUSION

It would now be able to be induced that the Government of India related to the direction of the Legal Body of the nation has been sensibly fruitful in setting down most sensible, co-usable, strong arrangements and laws to ensure the intrigue, life, and pride of ladies and give equity to casualty's sufferings from badgering, cold-bloodedness and dowry passing's. Still, certain rigid remedial estimates should be received to annihilate or at least check this famous issue of dowry interest from our nation however above all, it requires public will and pledge to evade away from this social and materialistic fiendishness insatiability for dowry. As it is said "at whatever point there is light, there is shadow as well", correspondingly, so as to give equity to ladies and to shield them from dowry provocation to their greatest advantage, there have been instances of abuse of the laws and arrangements gave to help and ensure them. These arrangements and rights have been abused in an off-base way and that too it has occurred for a sensible timeframe now. This is one of the escape clauses that is should have been adjusted furthermore, corrected by a similar Nobel, scholars, and scholarly officials who have set down these arrangements remembering the security of ladies from the terrible wrongdoing of dowry.

[1] Surender Singh v. State of A.P., 2020 SCC OnLine TS 874, decided on 06-07-2020

[2] (1999) 4 SCC 690.

[3] (2014) 8 SCC 273

[4] (1995) Cri LJ. 174 (Ori)

[5] AIR 1991 SC 1226

[6] (2017) 1 SCC 101

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