



DOWRY DEMAND: A TERMITE FOR SOCIETY

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INTRODUCTION OF DOWRY:

Whenever a man demands dowry he not only abuses his education but also disrepute's his would be wife and motherland. And the one who consents to this demand are the supports of this evil practice.

In the ancient times the marriages were related to **kanyadan**. It was laid down in the Vedas and dharma that the matrimonial ceremonies are not complete until the bridegroom gets the **dakshina**, this is the reason that whenever the bridegroom is given a bride he also gets some valuable thing i.e. cash or something in kind which is known as dakshina. Thus marriage gets associated with dakshina in this way that something valuable is given to the bridegroom by the parents and relatives of the bride out of love and affection as dakshina. In the ancient time dakshina was a voluntary act but as the time passes the voluntary word has been disappeared from this practice and the practice which was earlier referred to as dakshina has now taken the shape of a force at the time of marriage as well as after the marriage and the term is now known as **dowry**. As the time changed this practice of dakshina which was in accordance with Vedas and dharma has taken the evil shape and in the 19th & 20th century various laws have been made to prohibit this evil practice of the society. Earlier the dakshina was

given to the women with a view of her benefit but now the in-laws and the husband of the women make unnecessary demand of the valuable things in the name of custom and if the relatives, parents, guardians of the women fails to fulfill their demand the in-laws or husband may do cruelty or harassment with the women or may even abet her to commit suicide. During the last few decades this evil practice has made its root very deep in each part of the country and all sections of the society.

While noticing this increase in the evil practice of society the government of India made laws to protect the victim of this evil practice of dowry. The laws made were: Dowry Prohibition Act 1961 and, Section 304-B of IPC

DOWRY PROHIBITION ACT 1961

This act defines dowry as well as many provisions are made under this act to punish the people who follow the practice of dowry. Earlier many bills were presented before the parliament and the state government but the government continued to ignore the bill thinking that there is no urgency of making separate legislation for prohibit dowry. Later on when the bill was given to the cabinet for consideration then the cabinet decided that the legislation must be made on the matter of dowry. With the passage of time the evil nature of dowry increased the pressure on the parliament as well as the state legislature on the social and political level and they felt need for making laws related to dowry. In the year 1959, dowry prohibition bill was introduced in Lok Sabha and then several discussions were made and 6th & 9th may 1961, a joint session of both Rajya Sabha and Lok Sabha was held and several amendments were made by the houses and



the bill received the assent of the president on 20th may 1961 and became **Dowry Prohibition Act 1961**.

OBJECT OF THE ACT:

The main objective of this act is to prevent all the evil practices being done in the society in the name of Dowry. It is to be ensured that any dowry given to the women is for her welfare. In-laws of the women should not force the parents, relatives or guardian of the women to pay more money or anything valuable against their will (i.e. the thing or cash amount which they do not want to give to their daughter or cannot afford it) to the in-laws of their daughters before and after the marriage and if any person whether in-laws or the husband does so will be punishable under this act. Thus the object of this act is to prevent the abuse of the custom which was practiced earlier and to protect the innocent women who became victim of the evil practice termed as Dowry.

EXTENSION OF THE ACT:

The Act shall extend to all the parts of India except the state of Jammu and Kashmir.

MEANING OF DOWRY:

Dowry means any valuable thing or property given agreed to be given

1. By one person to the marriage to the other person to the marriage or to the relatives or parents or guardians before or after the marriage.
2. By parents of either parties to the marriage or by any other person, to either party to the marriage or to any other person at or

before or after the marriage in connection with the marriage of the said parties.¹

But the valuable thing received at the time of marriage as presents and gifts cannot be included in the dowry.

According to the dowry prohibition act 1961 the dowry giving taking and abetment to give or take the dowry or demanding dowry is punishable offence because many cases has been noticed where a women who enters her in-laws house with big dreams leaving behind her family expecting a good life in her matrimonial house but due to the evil practice of law she ends her life either by committing suicide or be burnt alive or cruelty is done with that women in respect of the dowry.

In **Lichma Devi v/s Rajasthan Case**², it was a case of bride burning on dowry demand and in this case the bride was burn by her mother in law and other relatives in the kitchen and when the investigating authority was called to investigate than they showed a different attitude towards husband of the bride and the Supreme Court discouraged this attitude of the investigating authority.

IMMOVABLE PROPERTY ALSO INCLUDED IN THE PURVIEW OF DOWRY:

It was not clear from the definition under section 2 of the dowry prohibition act that whether the dowry includes immovable property or not. But this confusion was solved in the case of **Vemori v. State of**

¹ Section 2 of dowry prohibition Act, 1961

² 1986 (1) WLN 106



Andhra Pradesh³, where the court made it clear that immovable property including the land will come under the meaning of dowry.

Dowry Prohibition Act has mentioned several punishments to prohibit this evil practice of the society which is growing day by day and the punishments are:

- **PUNISHMENT FOR GIVING AND TAKING DOWRY:**

If any person is giving or taking the dowry or abets the giving or taking of dowry that person shall be punished with 5 years of imprisonment or the penalty of Rs. 15000 or to return the amount to be taken as dowry, whichever is more.

Also it is given that anything taken as a present or gift at the time of marriage to the bridegroom without any demand is not included in the above case.⁴

- **PUNISHMENT FOR DEMANDING DOWRY:**

If any person directly or indirectly demands dowry from the parents, guardian or relatives of the bride they are punishable under this heading with an imprisonment of 6 months or in some cases it may extend to 2 years. Also the court has the discretion to reduce the imprisonment from 6 month depending upon the facts of each case.⁵

In Indersen v. State of Bihar⁶ the Patna High Court held that mere demand for dowry would not form any offence under the Section, unless it was shown that the other party consented to pay it.

- **PUNISHMENT FOR ADVERTISEMENT:**

If any person publicizes any information regarding the cash or property or anything valuable through any medium of advertisement for the purpose of marriage of the male or female shall be punished with the imprisonment for 6 months which may extend to 5 years or with fine of Rs. 15000.⁷

In Samundar Singh v/s State of Rajasthan⁸ the Supreme Court issued the directions which discouraged the grant of bail in the cases of dowry death.

- **CANCELATION OF MARRIAGE ON NON FULFILLMENT OF DOWRY DEMAND: PUNISHABLE:**

It happens many a time that whenever the demand of dowry is not fulfilled by one party to the marriage the other party cancels the marriage. This practice is also made punishable by the apex court in the case of S. Gopal Reddy v. State of A.P.⁹, Supreme court held that cancellation of proposed marriage for non fulfillment of demand for dowry punishable under Section.4 of Dowry Prohibition Act 1961.

- **AGREEMENTS FOR TAKING OR GIVING DOWRY- VOID:**

According to section 5 of the Dowry Prohibition Act, “any agreement for taking or giving dowry shall be void.” This is the reason that a suit for the recovery of the amount agreed to be given as dowry is not maintainable. In the case Ramekbal Singh and others v. Harihar Singh¹⁰ Patna High Court was of the view that any amount or

³ (1992) 1 crimes 287

⁴ Section 3 of dowry prohibition Act, 1961

⁵ Section 4 of dowry prohibition Act, 1961

⁶ 1981 Cr. LJ 1116

⁷ Section 4-A of dowry prohibition Act, 1961

⁸ 1987 SCR (1) 979

⁹ (1996) 4 SCC 596

¹⁰ AIR 1962 pat 343



any valuable paid under any such agreement which void cannot be recovered even after the fact that the marriage has not occurred.

PERSISTENT DEMAND OF VALUABLE PROPERTY AMOUNTS TO DOWRY DEMAND

Persistent demand of dowry is a situation when the party to a marriage constantly demands something valuable from the other party to the marriage. This situation often arises but the supreme could in the landmark judgment of **Pawan Kumar v. State of Haryana**¹¹ held that persistent demand for any property such as T.V. scooter etc, after marriage would be said to be in connection with marriage and this would constitute a case falling within the definition of dowry.

PLACE OF COMPLAINTS AGAINST CASE OF DOWRY DEMAND:

In **Smt. Sujata Mukherjee v. PrashantKumarMukherjee**¹², the Supreme Court held that a woman who is tortured by the husband and in-laws for dowry can file a criminal complaint in any place where such an offence under Sec. 498A IPC is alleged to have been committed against her.

DOWRY DEMAND - GROUND FOR DIVORCE:

If dowry is demanded by any person related to the bridegroom than that demand of dowry may become a ground for divorce. The bride can demand the relief of divorce on the demand of dowry.

The Supreme Court in the case of **Sobha Rani v. MadhukarReddi**¹³ held that the

demand for dowry, amount to cruelty and the same entitles the wife to get a decree for dissolution of marriage.

In some cases the husband denies to fulfill his all the legal duties and obligations in relation to marriage because of non-fulfillment of the demand of dowry. Such people who withdraw from the marital obligations and duties are punished with the imprisonment of 1 year or with the fine of Rs.10000 or both.

Besides this Act the Government also felt a need for more protection to the women due to some of the loopholes in the Dowry Prohibition Act 1961. And a provision was made in Indian Penal Code to protect the women from Dowry. Due to legal problems the statistics of dowry death cases were increasing yearly. A separate provision related to dowry death was created by the government in Indian Penal Code.

SECTION 304-B OF IPC

The government in 1983 made amendments in IPC to protect the women from dowry related cruelty done by the husband and his relatives. According to the provision made for dowry death in IPC in Section 304-B the police investigation is must according to the circumstances if the death has taken place in the unnatural form i.e. within 7 years of the marriage and the cruelty or harassment is done with the women before her death by her husband or the relatives of the husband. Also their intension was to cause her death. Commission of dowry death involves cruelty. Cruelty done by husband and relatives are defined in Section 498-A of IPC and cruelty is a conduct which is likely to drive the women to commit suicide or cause injury or damage to life.

¹¹ 1998 Cr. LJ 1144

¹² AIR 1997 SC 2465

¹³ 1988 SCR (1) 1010



Under **Section 198A of Criminal Procedural Code** it is provided that “No Court shall take cognizance of an Offence Punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or Upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.”

Also the **Indian Evidence Act, Section 113B** provides for the presumption of dowry death, if the woman is subjected to cruelty or harassment soon before her death in connection to the demand of dowry. The supreme court of India observed in the case of **Alamgir Sani vs State Of Assam**¹⁴ that “the death having taken place within seven years of the marriage and there being sufficient evidence of demand of dowry, the presumption under Section 113-B of the Evidence Act gets invoked. There is no evidence in rebuttal.”

In the case of **Durga Prasad v/s State of Madhya Pradesh (2010)** the Supreme Court held that only proving the there was bride burnt in demand of dowry is not enough to hold the accused guilty it is also to be proved that the bride death was occurred within 7 years of her marriage in demand of dowry and the husband and the relatives soon before her death have done cruelty and harassment with her for dowry and they have deemed to cause her dead only then the dowry would be proved.

PUNISHMENT FOR DOWRY DEATH

To punish those criminals who have spoiled the old custom and replaced it with the evil practice of Dowry the government has made provision:

The person who causes Dowry Death of women is punished with the imprisonment of 7 years and may extend to life imprisonment.¹⁵

DATABASE OF DOWRY CASES UNDER THE DOWRY PROHIBITION CASE:¹⁶

Besides laws made by the Indian legal system to eradicate this awful dowry practice much improvement was not witnessed. The total number of cases of dowry reported in India under Dowry Prohibition Act was 9894 during the year 2015. In terms of the dowry cases the top 10 states or UTs of India were:

- 1) **Uttar Pradesh:** Total number of cases reported under Dowry Prohibition Act was 2766 during the year 2015. It accounts to 27.96% of the number dowry cases in India under the Act in 2015.
- 2) **Bihar:** Total number of cases reported under Dowry Prohibition Act was 1867 during the year 2015. It accounts to 18.87% of the number dowry cases in India under the Act in 2015.
- 3) **Jharkhand:** Total number of cases reported under Dowry Prohibition Act was 1552 during the year 2015. It accounts to 15.69% of the number dowry cases in India under the Act in 2015.
- 4) **Karnatak:** Total number of cases reported under Dowry Prohibition Act was 1541 during the year 2015. It accounts to

¹⁵ Section 304B of Indian Penal Code

¹⁶ Community.data.gov.in
<https://community.data.gov.in/>

¹⁴ Appeal (crl.) 1067 of 2001



15.58% of the number dowry cases in India under the Act in 2015.

- 5) **Odisha:** Total number of cases reported under Dowry Prohibition Act was 1201 during the year 2015. It accounts to 12.14% of the number dowry cases in India under the Act in 2015.
- 6) **Tamil Nadu:** Total number of cases reported under Dowry Prohibition Act was 333 during the year 2015. It accounts to 3.37% of the number dowry cases in India under the Act in 2015.
- 7) **Andhra Pradesh:** Total number of cases reported under Dowry Prohibition Act was 303 during the year 2015. It accounts to 3.06% of the number dowry cases in India under the Act in 2015.
- 8) **Assam:** Total number of cases reported under Dowry Prohibition Act was 95 during the year 2015. It accounts to 0.96% of the number dowry cases in India under the Act in 2015.
- 9) **Madhya Pradesh:** Total number of cases reported under Dowry Prohibition Act was 62 during the year 2015. It accounts to 0.63% of the number dowry cases in India under the Act in 2015.
- 10) **Maharashtra:** Total number of cases reported under Dowry Prohibition Act was 42 during the year 2015. It accounts to 0.42% of the number dowry cases in India under the Act in 2015.

The above mentioned first 5 states accounts to a total of 90.24% of reported dowry cases in India in the year 2015. All the 10 states together accounted for 98.68% of reported dowry cases under the Act in India as a whole for the year of 2015.

LOOPHOLES OF DOWRY LAWS:

The practice of dowry was deeply rooted in the Indian society that hardly any case comes up where the accused of this evil practice was actually punished. In spite of making the Dowry Prohibition Act and various provisions in IPC for the protection of the women there is no shortfall noticed in the cases related to dowry. Indian Legislation is putting so much of efforts to vanish the crimes in the society and judiciary is implementing the solutions to vanish them but still there are some drawbacks in the Indian laws that problems are being faced by the people in relation to the dowry and the laws are inefficient in stopping the dowry death. Some of these problems are:

• VAGUE LANGUAGE OF STATUTE:

The language of the statue is vague and inefficient in preventing the dowries. The act covers the gifts given at the time of the marriage but it does not include the valuables demanded after the marriage in the name of the gifts. Also in Indian evidence Act, Section 113B, the word 'soon before' is not defined.

• LAWS NOT FOLLOWED IN STRICT SENSE:

The other failure to prevent the dowry act is that the laws made are not being followed in the strict sense. The police officers have been given proper instructions of investigating in a dowry death case but police do not follow the process of investigation properly. And in some cases the police fail to investigate properly. And sometimes due to corruption the police take money from the husband and the relatives under the table to close the case. Less than 10% of the dowry death cases are investigated.



- **IGNORANT CULTURAL ATTITUDE:**

Girls in Indian society are considered as liability and boys are considered as assets because girls have to go to the next house i.e. the husband's house and not so with the boys. A woman of Indian culture is taught from the very beginning that she has to marry a man and move with him in his family and there she has to get mixed up with the husband family and have to make place for herself in the family. She is also taught that she has to face each and every thing going in the family but she have to remain silent and she cannot speak a word against her in-laws. The women is made prepared for facing all the things whether right or wrong going in the family without complaining and returning back to the family because divorced women is a bad example for the society and for herself also and divorce will ruin the self respect of the family of the women and the women herself also. This is the reason that even if a women takes up a stand for her against any wrongful act of the in-laws say dowry act then she will not have the support of her parents or any other relative and when she is helpless she will commit suicide. Thus there is a need to change this kind of attitude in 20th century.

- **DOWRY AND STRIDHAN:**

Stridhan is the property which the women can claim as her own property. It includes something valuable such as jewelry, and other gifts. People today give the valuable property in the name of stridhan for the use of the bride but it is actually something which is similar to Dowry. For example people give luxurious cars for the use of their daughter but that car is not for only her use moreover it somewhere

relates to dowry. No typical differentiation is given between the above terms dowry and stridhan in the Indian laws due to which the dowry is practiced in the name of stridhan. Thus both dowry and stridhan should be differentiated properly.

- **DISCRIMINATION:**

Though the world today is so advanced but still the women are considered weaker than man. If we study the treatment given by the Indian family to their daughters and to their sons, it is totally different. The people promote the education of the boys rather than that of the girls moreover girls are asked to involve in the household work rather than studying. On the other hand the boys are encouraged to study more. These type of discrimination unable the girls to enhance their knowledge in terms of the advancement of the society. The girls remain restricted to what happens with them and the way they were treat by their parents, they have no idea that the society is becoming so advanced regarding the crimes and they also their upcoming generations in the same way as their parents treated them and thus the evil practice of dowry continues from the generations because of the above discrimination.

- **DELAY IN DISPOSING CASE:**

The judiciary makes so much of delay in disposing of cases and the lengthy procedure in case of dowry death is also the reason that delay is faced in getting speedy justice. this loophole also creates the problem of "witness hostile" which means due to much delay in disposing the cases the witness that supports the case on the part of the plaintiff gets hostile i.e. he



may refuse to become the witness of the incident and lack of witness means lack of evidence and lack of evidence means that the case will not be proved and this will lead to the loss of the case and again the innocent will not get the justice and this act of dowry will continue to remain in the society

- **INEFFICIENT POLICE OFFICIAL:**
The police officers never reach on the time of committal of the offence and it is the drawback on the part of the police department. police always arrives late after the call is made due to their late arrival the crime takes place and the victim dies and the police is unable to save her life. Calling the police for help means that the crime will be committed may not take place due to timely arrival of the police but unluckily police never arrives on time. this problem is arrived because the all the calls made on the number 100 are directly connected to their central reporting department instead of the police station of the particular area and while transferring the information to that particular area the times get waste and the crime has taken place. The above problem may happen due to the lack of police officers available because the most of the crimes takes place at night and there is a lack of police officers on duty at night. And the officers are unable to reach the palace on time.
- **LESS AWARENESS AMONG WOMEN:**
Low level of education and awareness among the women in both rural and urban areas is one of the reasons that the women are less aware of the Laws in the society relating to the dowry. As because of less awareness the women are not able to file

the complaints against those who practice the evil of dowry in society. Such women keep on tolerating the harassment for dowry.

- **REPORT OF FAKE DOWRY CASES:**
It has been noticed that many fake cases are filed by the bride or the married women to threaten the husband or in-laws. This increases the misuse of the dowry laws moreover increases the burden on the Indian Judiciary because of the fake cases.

Following are the **Solution** to the above **loopholes:-**

- Women in the Indian Society need to get more educated and more independent because most of the cases noticed of bride burning are from the society where the women are not independent and educated. Various legal programs should be held to make the women who are still facing the evil effects of dowry aware about their rights and solutions to face it.
- The women empowerment should be made stronger and the women should be treated equally to them and no discrimination should be made and more laws should be made to abolish the discrimination.
- In dowry death cases the investigation of the police officers should be fast and there should be no corruption plus increase in the number of police officers on duty in morning as well as at night. In the case of **Bhagwant Singh V/s Commission**¹⁷ of State the Supreme Court suggested that more number of lady police officer should be involved in the case of dowry death.
- The calls made on 100 number should be connected with the nearest police station

¹⁷ 1985 SCR (3) 942



of the area from where the call is made instead of connecting it with central reporting department. Because it causes delay in arrival of the police at the site of crime.

- Speedy disposal of cases should be made by making fast track courts for the dowry death cases.
- Some awaken movements are also needed to finish this evil practice which is deeply rooted in the society and no shortcuts can be adopted to finish this evil practice.
- The language used in the dowry prohibition act should widen the scope of the definition of Dowry and the word should also involve the dowry taken in the name of stridhan and gifts before, at the time and even after the marriage. There should be a provision made which gives proper definition of dowry and stridhan so that no valuables are exchanged between the parties to the marriage in the name of stridhan.
- The youth today should understand what they learn about the evilness of the dowry and should contribute to the society by not practice it.
- Awareness among the women regarding the dowry laws should be supported by the government by organizing “**dowry laws awareness camps**”.
- Strict laws should be made and implemented to avoid this misuse of the laws by the women against her husband or in-laws. For example: The police should arrest the husband or his relatives only after the proof of the crime and not on the mere assumption.

CONCLUSION:

Changes are needed in our society to protect those innocents who are the victim of the

dowry system. Both Legal and Social changes are needed. The people of the society needs to broaden their thinking and should support their daughters and other women. Also Indian government need to look after the loopholes in the laws and the people need to change their mindset and start contributing in preventing the evil practices which harm the whole country. Our government needs to think about abolishing such practice which is ruining our society and various relationships and because of this evil practice many innocents just for some amount are losing their life. For securing the innocent victims government has launched a lot of laws but besides those laws such dowry practices are still continuing and existing in the society. Thus the government should either amend the laws and correct the loopholes in the laws due to which the dowry is still continuing in the society or the government should abolish this practice and custom of taking and giving dowry in the name of dakshina same as the custom of child marriage and practice of sati is abolished because they are just harming the society and no benefits are there in practicing such evil things.
