



DOWRY DEATHS : A VIOLATION OF THE RIGHT TO LIFE

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ABSTRACT:

Dowry deaths has always been a major issue since and number of dowry deaths are increasing in India since 1980. When a young woman is murdered by the in-laws because of non-fulfilment of the demands made such as demand for money, property and other valuables also known as Dowry. It was important to deal with such kind of cases as there was a huge spike in dowry deaths and also according to survey a lot of cases are not even filed or are not even considered to further get investigated. Every year many helpless women suffer cruelty by husband and relatives of the husband culminating into suicide/ murder. Many organisations and NGOs are working towards the issue and pressurizing the government to lay down legislations to protect women against such kind of domestic violence and dowry. This article aims to study what dowry death is and misuse of Section 498A¹.

INTRODUCTION:

Dowry death in a major issue in India and there is hardly any other issue of such magnitude. In India, the society considers a newly married women to be a gold mine. If a newly married woman fails to fulfil the demands of in-laws, then she will be illtreated and will get tortured and because of this the girl would to resort to suicide or be burned alive by the in-laws. In India, the

culture of taking dowry was originally established to provide a guaranteed protection to the woman and it was the provision of "Streedhan"² in the form of money, property or gifts given solely to the woman by her parents at the time of her marriage. The word "Streedhan" was made with two different words, "Stree" meant woman and, "dhan" meaning wealth. Due to abuse of this stereotypical custom the original meaning of dowry was corrupted as the original motive behind the custom was to act as a safety net for the woman but instead it became the price tag for the groom and trap for the bride. Although dowry deaths have reduced in urban areas but the number of dowry deaths in rural areas are still to be considered as a major problem. According to a survey, there was an increase in deaths of brides in 90s and there many more deaths which were not reported. Statistics showed that 2988 dowry death cases were pending in the High Courts and 13251 dowry death cases were pending in the subordinate courts all across the country. Section 498A was introduced in the year 1983 to provide protection to a married woman against cruelty. The aim of the provision was to provide protection to women against dowry-related harassment and cruelty. Although it was a powerful provision through which a women can seek justice but on the other hand the provision became an easy tool for women to misuse it.

DOWRY:

Dowry also known as Dahej is the money, property or any other valuable item by the woman's family to the bridegroom. Dowry

¹ <https://indiankanon.org/doc/538436/>

² <https://www.lawctopus.com/academike/streedhan-right-woman/>



System in India³ is considered to be a custom to provide safety net for women. If the demands of bridegroom's family are not fulfilled by the bride's family, then the bride would be illtreated which could resort to suicide or murder by in-laws. Asking for dowry in India is illegal and the person asking for it can be held liable. Dowry systems are considered as the commercial aspect in Indian Marriages. Dowry could put the bride's family in lot of monetary burden. So, to combat dowry system and reduce dowry deaths government has enacted various laws to prevent such deaths and ensure justice to the needy. Dowry Prohibition Act of 1961⁴ was introduced as to provide protection to women against dowry and to increase the effectiveness of act it was amended twice, first in 1984 and then in 1986. If someone violates the act, he will be held liable and would be punished with a term of imprisonment of between six months and two years and also fine of up to ten thousand rupees or the value of the dowry, whichever is higher.

Nunna Venkateshwarlu v. State of Andhra Pradesh⁵

In this Case the women died an unnatural death by consuming pesticides. There was enough evidence to prove that she was being tortured and harassed just because the in-laws were constantly forcing her to sell the five acres of land which was gifted by her father at the time of marriage. As she was unable to bear the torture/harassment due to which she committed suicide. So, there was sufficient evidence to prove that the demands for dowry were made by in-laws. High Court held that

it has to be prove that there was prior agreement by the parents of the girl to the husband or the in-laws to pay money or any kind of valuable security. Till the time it was not proved the accused would not be held liable under Sec- 304B, IPC⁶. The accused was further convicted under section 498A and 306,IPC⁷.

CRUELTY:

If a husband or his relative torture, harass or drive the wife to the extent that it would resort to suicide or cause grievous injury then this would be termed as cruelty. Also, if a woman or her relatives are forced with the intention to extract money, property or any other valuable then this would also be considered as cruelty. Considering all the factors such as economic situation, social standing and background of the parties, an act of cruelty is determined. Cruelty can be both mental and physical. Illtreating, harassing, teasing, taunting etc are some of the examples of cruelty.

K. Prema S. Rao vs Yadla Srinivasa Rao⁸,

In this case the deceased Krishna Kumari married Yadla Srinivasa Rao who was working as a Branch Postmaster. Both of them were living with Yadla's parents. At the time of marriage, 15,000 in cash, along with other valuables and five acre of land and a house place were given as dowry by deceased's father. Husband started to demand the land which was gifted to her by her father and when she refused for so, husband started torturing and physically abused her. The torture was so brutal that she

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https://en.wikipedia.org/wiki/Dowry_system_in_India

⁴ <https://wcd.nic.in/act/dowry-prohibition-act-1961>

⁵ (1996) Cr LJ 108 (AP)

⁶ <https://indiankanoon.org/doc/653797/>

⁷ <https://indiankanoon.org/doc/92983/>

⁸ <https://indiankanoon.org/doc/1250057/>



committed suicide by consuming Endo-Sulphan insecticide.

FIR was reported on the same day within 8 hours by the father of the diseased. In the judgement, the trial court accepted the evidence presented by the prosecutor on the deceased's claimed cruel treatment and harassment, which prompted her to commit suicide. They were acquitted of the offences under Section 304-B, IPC. The three accused on their conviction for offences under Section 498-A, were sentenced to 2 years and fine of 500 each for rigorous imprisonment.

SECTION 498A IPC:

INGREDIENTS:

Section 498 (A) is the only section in the Indian Penal Code, 1860, provides protection to women against domestic violence and it recognizes domestic violence as a crime. Enactment of Section 498A was enacted to curb cruelty against married women. As time passed various subsequent amendments were also introduced to effectively deal with cases of dowry deaths and cruelty to married women by the husband, in-laws and relatives. In addition to the 498A, The Protection of Women from Domestic Violence Act, 2005⁹, is also essential to curtail harassment and ill-treatment against women.

The basic ingredients to attract Section 498A are:

1. Woman and man should be married
2. Woman should've been a victim of cruelty or harassment
3. Husband or the relative of husband should've inflicted cruelty or harassment.

⁹ <https://www.bnblegal.com/bareact/protection-women-domestic-violence-act-2005/>

CLASSIFICATION OF OFFENSE

Cognizable offense – There are two types of offences which are cognizable and non-cognizable. Offences under Section 498A are cognizable in nature which means the police can arrest without any warrant.

Non-Compoundable Offense – Offences under 498A are non-compoundable which means the complaint cannot be withdrawn e.g., rape, dowry death, murder, etc.

Non-Bailable Offense – Cases under 498A are non bailable in nature and these kinds of offences are serious offenses where bail can only be granted under the discretion of the magistrate.

CRITICISM:

While Section 498A is considered to be a strong tool for protection of women against dowry and cruelty it is also considered to create an opportunity for women to misuse it by filing fake cases or torture husband's family. As this section was made for protection of women, they should not misuse it. Majority of people consider the section as a need whereas there are many people who criticize the section.

CASE LAWS:

Arnesh Kumar v. State of Bihar¹⁰

The court in this case held that the cases under Section 498A of IPC are cognizable and non-bailable offences. The section acts as shield for wives who are tortured or harassed. In some cases, the section is used as weapon against husbands. Some wives are misusing the section to harass the husband and his relatives by filing a fake complaint and getting them arrested. Thus, the Court issued certain guidelines to be followed the

¹⁰ <https://indiankanoon.org/doc/2982624/>



government officials while arresting under Section 498A, IPC or Section 4 of the Dowry Prohibition Act, 1961. Such arrest should be based upon genuineness of the allegation.

Rajesh Sharma and Ors. v. State of Uttar Pradesh¹¹

In this case the Court gave more importance towards the rights of the accused husband and his relatives. The judgment of this case describes how justice for women in Indian society is far from realized. Indian judiciary needs to be more gender neutral and should guarantee protection to men and women equally. Instead of taking measure to curb the menace of dowry, judgment has made the situation even worse. Women who raised voice against such kind of violence feared that if they the protested they will be illtreated and would be thrown out. Thus, the effect and purpose of law should be rechecked by the judiciary and it should do the needful.

IS THERE A NEED FOR AMENDMENT OF SECTION 498A OF IPC?

According to me there is a need to amend Section 498A of IPC as creates an opportunity for some women to misuse this Section in various ways. This section creates a gender bias as women are provided a protection using this Section but man on the other hand are not provided any kind of protection if Section 498A is misused. Many social activists have raised the issue that while we are focusing on protection of woman we should also focus on prevention of misuse of laws as there are many instances of laws being misused. Harassed Husbands Association has been established as to protect the interests of harassed husbands and it is high time when government should start acting towards establishing gender neutral

laws so as to protect interests of both male and females.

CONCLUSION:

As Marriage is an important ritual in the Indian tradition, which creates a bond between husband and wife which is strongly associated with love, tolerance, support, and harmony. This bond is affected by the dowry system which is present everywhere in India. Although, dowry system is established as to provide protection to woman but when the demands of groom's family are not fulfilled it could lead to ill-treatment or harassment of bride. The problem of dowry has spread its roots deep into our society. In India a majority of cases are related to dowry death. Government and several organisations are acting against crimes against women. Government has enacted Section 498A which not only act as shield but also provides protection against cruelty and harassment of woman. While Section 498A is made to provide protection to woman, some women are misusing the section by filing false case so in this case it establishes a necessary duty on government to ensure that no false cases are filed and prove to be gender neutral. There was a need for this Section since a long time but the Section should be further amended. No matter how much efforts are being put by the Government the issue of dowry cannot be eradicated completely from our society until the people understand that dowry system is wrong.

¹¹ <https://indiankanoon.org/doc/182220573/>