



DOWRY RELATED OFFENCES

By Karnika Solanki

From Institute of Law, Nirma University

INTRODUCTION

Dowry is a valuable or any important property such as jewelry, money, expensive items etc. which the bride after her marriage brings it to her matrimonial home. The practice of giving and taking dowry is followed by almost everyone whether it be any caste, religion, culture etc. Such as the ideology of Vardakshina which means presenting of gifts to the bridegroom. However, in the modern era the meaning of dowry has totally changed. Many people especially belonging to the side of groom create pressure upon the bride's family and demand huge amount as dowry in order to complete the marriage and so bride's family and especially if it belongs to low economic class is affected.

LAWS RELATED TO PRACTISE OF DOWRY

- The first law related to dowry was Dowry Prohibition Act, 1961 which defined dowry as any property or valuable security given or agreed to be given 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 personal or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons

to whom the Muslim Personal Law (Shariat) applies.²

Section 3 of the Act states that if any person abets the giving or taking of dowry then he is punishable under law. However, the act allowed taking or giving of gifts.

- Then the Dowry Prohibition Act, 1984 helped in adding the concept of Dowry Death. Then later Protection of Women from Domestic Violence, 2005 was also brought up.
- According to Section 304 B of Indian Penal Code, 'Dowry death' is defined as the death of a woman caused by burns or other bodily injury, occurring otherwise than under normal circumstances within seven years of her marriage, when it is shown that soon before death the woman was subjected to cruelty or harassment by her husband, or any of his relatives, for or in connection with dowry. Such husband or relative deemed to have caused her death can be punished with imprisonment for not less than seven years and possibly extending to life imprisonment.³
- According to Section 498A of Indian Penal Code, cruelty to a wife by her husband, or any of his relatives, is punishable with imprisonment for up to three years and also a fine. 'Cruelty' here is defined as any wilful misconduct, either mental or physical, which drives the woman to commit suicide or causes grave injury or danger to her life, limb or health.⁴
- According to 113A of Indian Evidence Act, The court may presume that any suicide connected with dowry has been abetted by the deceased's husband or by his relatives. Where any person is prosecuted for taking or abetting the taking of dowry under s. 3, or the demanding of dowry under s. 4, the burden of

¹ Latha, K. S., and R. Narendra. "Dowry Death: Implications of Law." *Medicine, Science and the Law*, vol. 38, no. 2, April 1998, p. 153-156. HeinOnline.

² The Dowry Prohibition Act, No. 28 of 1961

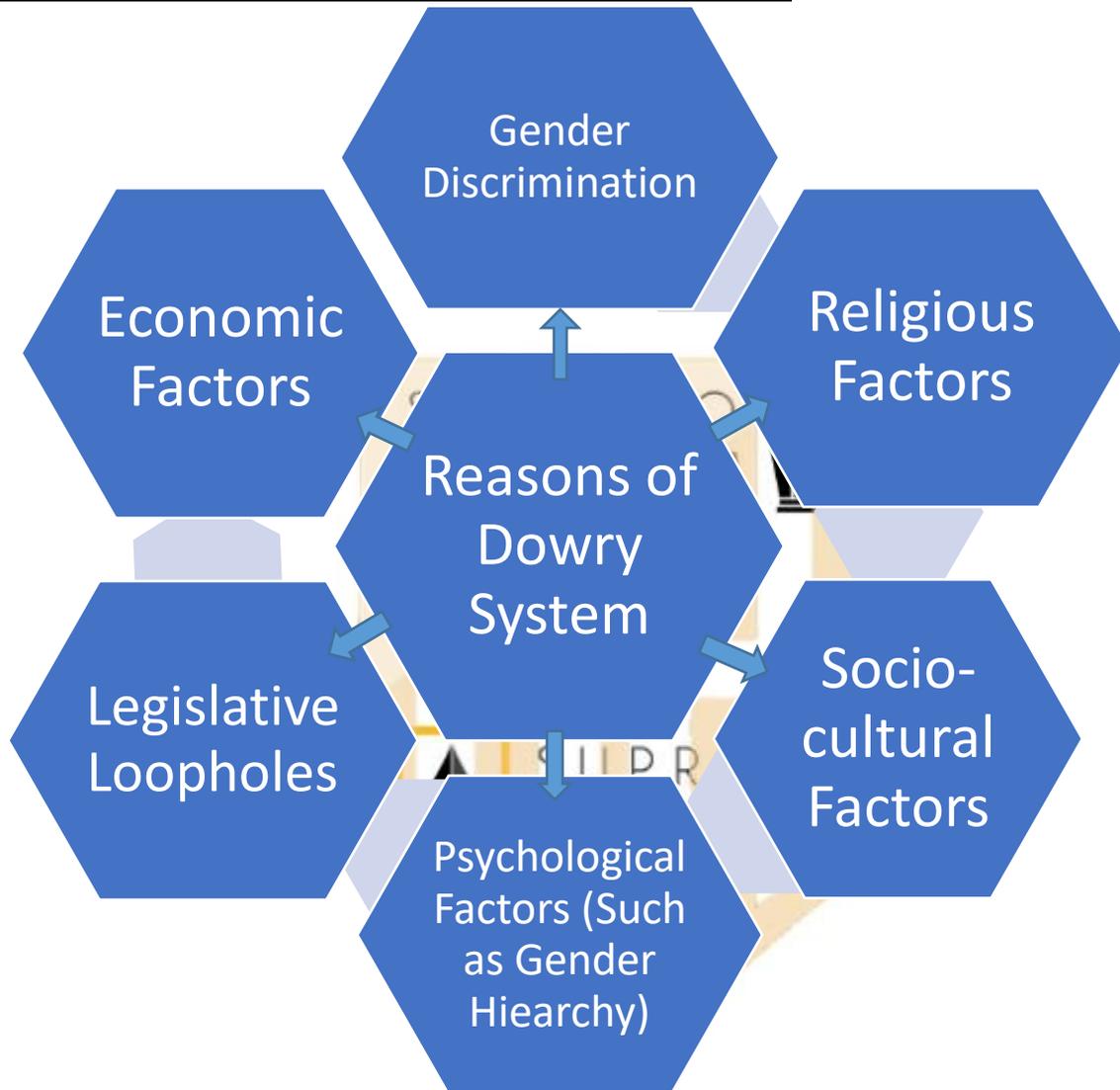
³ The Indian Penal Code, Act No. 45 of 1860

⁴ The Indian Penal Code, Act No. 45 of 1860



proving that no offence has been committed shall be on the accused.⁵

REASONS FOR CONTINUATION OF DOWRY SYSTEM



⁵ The Indian Evidence Act, No. 1 of 1872



ANALYSIS OF CASES RELATED TO DOWRY

NAME OF THE CASE	YEAR AND COURT	DESCRIPTION OF THE CASE	CRIMINOLOGICAL INSIGHTS
Chain Singh Dhakad vs Hargovind and Ors. (ILR 1992 MP 700)	Decided on 14 th December, 1989 in the High Court of Madhya Pradesh	Vinita, daughter of the appellant was married to non-applicant Hargovind on 7 th May, 1987 and she died on 7 th July, 1989 because of Poisoning. She had become pregnant and aborted in Jabalpur in June 1989, On 8 th July, 1989, Vinita was brought to hospital by Hargovind and his father, Kanhaiyalal for the treatment but on examination she was already found dead and so 2 constable were sent for inquiry, and it was found that Vinita had a headache on 7 th July and had vomiting also. Hargovind informed his father-in-law Chain Singh when the health of Vinita deteriorated and it was decided to take her to Udaipur hospital where she was found to be dead and so it was decided to do Post-mortem done. In his statement, Chain Singh, the father of the deceased claimed that Vinita was subject to cruelty to obtain Rs. 50,000 as dowry as they wanted to start a new business and this was the cause of her death. Raisea, a friend of Vinita living in neighborhood also proves that Vinita was harassed for the dowry and she was taken to Jabalpur for abortion operation and was dragged out of the hospital against the doctor's advice. The dead body of Vinita in her stomach lungs, spleen contained Aluminum Phosphate. This evidence prima facie indicate that she was treated cruelly and also as per Section 113 B of the Evidence Act the act would amount to dowry death.	In this case, it can be derived that the cause of death of the victim was due to dowry harassment which means that the victim was subject to cruelty from her matrimonial home and this can be established as she was found dead in unusual circumstances and within 7 years of Marriage.
Munnu Seth and Ors. Vs State of U.P (2014(1) ACR 1172)	Decided on 10 th January, 2014, in the High Court of Allahabad	The Complainant married his daughter, Sunita with Rajesh Kumar on 13 th July, 1997 and since marriage Rajesh Kumar; his father, Munnu Seth and brothers Rakesh, Sanjay and Raja and Sister Gudiya demanded Fridge and rs 20,000 as dowry and he showed his ability to meet their demand and after much	In this case, it can be derived that cause of the death of the deceased was cruelty by her in-laws which was due to dowry and even when the father of the deceased gave fridge to



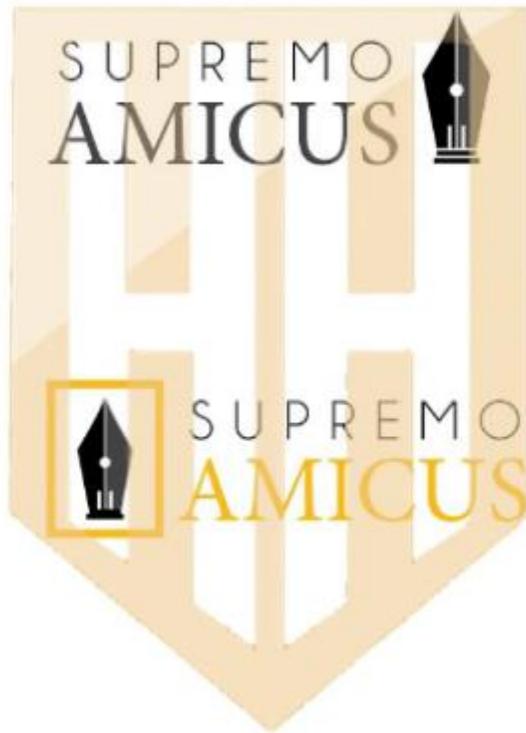
		<p>persuasion they agreed to her back home after a week. Sunita claimed to her father, Mata Prasad Seth that her in-laws including her mother-in-law tortures her for not giving the said things in dowry. When the father of sunita went to her matrimonial home when they heard from their relative about her death, they found the body of their daughter in burnt condition. On 7th January, 1998, the husband of the deceased informed that his wife died due to burn injuries while she was preparing tea. In the Post-mortem it was found that there was smell of kerosene oil present on the body and in the opinion of the doctors the deceased suffered death about one day before due to shock and asphyxia. Even when the complainant gave fridge in dowry. The court held that the prosecution proved beyond all reasonable doubts that accused demanded dowry and harassed her and therefore they are liable for dowry death under Section 304 B.</p>	<p>them but they did not stopped torturing and harassing her.</p>
<p>Mampi Das (Sarkar) vs Mithun Sarkar</p>	<p>Decided on 26th March, 2021 in the High Court of Tripura.</p>	<p>Aggrieved by and dissatisfied by order of the Family Court of Udaipur that declined to grant maintenance allowance to the petitioner. Petitioner has challenged this order in the High Court. Petitioner Smt. Mampi Das (Sarkar) filed an application under Section 125 of the CrPC for granting of rs 10,000 per month to her as maintenance allowance. She alleged that her husband started committing atrocities on her after 2 months of marriage and abused her and demanded for dowry while during marriage the petitioner's parents already gave valuables such as jewelry, furniture, color T.V. and sum of rs 50,000. The husband of the petitioner demanded rs 50,000 in cash and even ousted her from matrimonial home. The court allowed the appeal as the evidence on record indicate that petitioner separated herself from the company of her husband in fear of torture and harassment. Although since the petitioner was not able to show any</p>	<p>In this case, the petitioner was victim of harassment due to many reasons such as dowry and even the husband of the petitioner abused her after the marriage and tortured her for more dowry. Although since the petitioner did not have proper evidence to proof the income of her husband the court allowed her partial amount of maintenance claimed.</p>



		document in evidence of her husband's income therefore, the court allowed for partial amount i.e. 3,000rs as maintenance per month to the petitioner.	
Sapnesh Agrawal and Ors. Vs State of MP and Ors.	Decided on 4 th October, 2019 in the High Court of Madhya Pradesh (Jabalpur Bench)	The Petitioners (Accused) filed this case as to quash the FIR registered against them. Respondent no.2 of the case was married with petitioner-accused no. 1 and petitioner-accused no. 2 is brother-in-law and petitioner-accused no. 3 is mother-in-law of respondent no. 2. After marriage the accused started to threaten and demanded gold chain and money from respondent no. 2. They humiliated and tortured her by not giving proper food, medications, by burning the hand of respondent no. 2. While petitioner-accused alleged that respondent no. 2 mad. And the court decided that since prima facie it cannot be said that case of respondent no. 2 is frivolous and so accordingly the petition to quash the FIR is dismissed and all the disputed facts will be investigated at trial.	In this case, the court after finding that after assessing the prima facie facts as claimed such as the respondent was tortured and humiliated in her matrimonial home, a case is made for dowry and so it refused to dismiss the FIR.
Awadesh Kumar vs State of UP (2019 (107) ACC 429)	Decided on 9 th January, 2019 in the High Court of Allahabad	The appeal is filed by appellant Awadesh Kumar Dubey against the judgment passed by Additional Session Judge convicting him for offence punishable under 498 A of IPC and for 304 B of IPC. Arpana, daughter of Yashodanandan Dubey was married with Awadesh Kumar and dowry as per capacity of Rs. 2.5 lakhs cash was given in marriage but the husband, Ramesh Chandra (Father-in-law) and Lalita Devi (mother-in-law) were not satisfied and demanded 20,000rs and a motorcycle for carrying of business after 3 years of marriage. On 28 th November, 2007, arpana was found lying dead in house of accused person and she used to apprise that if the demand of additional dowry is not fulfilled then her in-laws would kill her. After the Post-mortem the doctors were of the opinion that the cause of death was asphyxia due to strangulation of neck about one day ago. The court dismissed the appeal by	In this case, since all the evidences proved beyond all the reasonable doubts that victim was harassed and abused for dowry and when she was not able to fulfill it, she was found dead under unnatural circumstances and therefore the court dismissed the appeal for quashing the judgement of conviction.



		stating that proved beyond all reasonable doubts and all proved through evidence ingredients are covered under 304 B of IPC. While the Appellant (accused) have not been able to proof evidence in their defense and therefore appeal is dismissed and there is no reason to quash the judgment of conviction.	
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FACTS AND EVIDENCES

The World Health Organization (WHO) implicates deep-rooted cultural norms as influential contributing factors in physical and intimate partner violence against women. In India, brides are victimized when the dowry or bride price is deemed unsatisfactory by the groom and his family. The National Crime Records Bureau (NCRB, 2011a, 2011b) Report of India, recorded a total of 8,618 female homicides related to dowry disputes in 2011, and 3,239 suicides by women due to dowry issues—a 2.7% and 4.7% increase, respectively, from the previous year. The NCRB also reported a 27% increase in arrests under the Dowry Prohibition Act in 2011 from 2010 and an alarming 59% increase in total crimes against women in India over the past decade. In 2011, 99,135 Indian women officially reported cruel treatment by their husbands and relatives, according to the NCRB.⁶

The tables below shows different data regarding the yearly percentage of alleged dowry death and the age of victim and no. of victims belonging to different economic class.⁷

Table I. Yearly percentage of alleged dowry deaths.

Year	Total autopsies		Total females		Married females		Mode of death					
							Burns		Poisoning		Others*	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1998	286	17.3	63	22.0	46	73.0	28	60.9	13	28.3	05	10.9
1999	303	18.4	81	26.7	63	77.8	37	58.7	15	23.8	10	17.5
2000	352	21.2	118	33.5	71	60.2	46	64.8	18	25.4	07	09.9
2001	372	22.5	145	39.0	95	65.5	63	66.3	23	24.2	09	09.5
2002	338	20.5	142	42.0	98	69.0	65	66.3	21	21.4	12	12.3
Total	1651	100	549	33.3	373	67.9	239	64.1	90	24.1	44	11.8

* Others: hanging, drowning, use of weapons such as firearms and sharp cutting weapons, jumping from height, etc.

Table II. Relationship of age to the duration of marriage in alleged dowry deaths.

Duration of Marriage	Age of victim									
	Below 18 years		18 to 25 years		26 to 35 years		Above 35 years		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
< 1 year	02	07.4	19	70.4	06	22.2	00	00.0	27	07.2
1 to 2 years	04	03.5	77	67.5	33	29.0	00	00.0	114	30.6
2 to 3 years	00	00.0	63	62.4	38	37.6	00	00.0	101	27.1
3 to 4 years	00	00.0	31	62.0	19	38.0	00	00.0	50	13.4
4 to 5 years	00	00.0	07	29.2	11	45.8	06	25.0	24	06.4
5 to 6 years	00	00.0	05	23.8	07	33.3	09	42.9	21	05.6
6 to 7 years	00	00.0	06	16.7	09	25.0	21	58.3	36	09.7
Total	06	01.6	208	55.8	123	33.0	36	09.7	373	100

⁶ Banerjee, Priya R. "Dowry in 21st-Century India: The Sociocultural Face of Exploitation." *Trauma, Violence & Abuse*, vol. 15, no. 1, 2014, pp. 34–40. *JSTOR*, www.jstor.org/stable/26638331. Accessed 10 May 2021.

⁷ Sharma, B. R., et al. "Dowry - A Deep-Rooted Cause of Violence against Women in India." *Medicine, Science and the Law*, vol. 45, no. 2, April 2005, p. 161-168. HeinOnline.



Table III. Relationship of age and socioeconomic status in alleged dowry deaths.

Age of the victim in Years	Socioeconomic Status of the family													
	High		Middle				Low				Total			
	>50000	25-50000	15-25000	10-15000	05-10000	<5000	Total							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%		
<18	00	00.0	00	00.0	00	00.0	00	00.0	01	16.7	05	83.3	06	01.6
18-25	00	00.0	02	01.0	12	05.8	17	08.2	76	36.5	101	48.6	208	55.8
26-35	00	00.0	01	00.8	04	03.3	14	11.4	39	31.7	65	52.4	123	33.0
>35	00	00.0	00	00.0	00	00.0	05	13.9	03	08.3	28	77.8	36	09.7
Total	00	00.0	03	00.8	16	04.3	36	09.7	119	31.9	199	53.4	373	100

SUGGESTIONS AS TO CONTROL DOWRY RELATED CRIMES.

- Ideas should be introduced to making woman financially independent as to stop violence on them as most of the woman who suffer cruelty, keeps silent about it as they are dependent upon their husband.
- The loopholes in the legislations should be minimized so that no one can misuse the laws and escape from their liabilities. Stricter punishments with a view to change society's view about dowry should be brought up.
- There can be a committee or commission set up as to identify the various causes and even locate where the most crime rates reported and work accordingly.
- Even there are some instances where the women fear to report the FIR because from family pressure and image of their family and so new policies should be introduced to make women feel comfortable and is friendly towards them and help them report without getting afraid.
- Also, there are some women who are not even aware about their rights and various laws that are there to help them. So women's should be educated about their rights.

- Then in long term the perspective of society towards women should be changed gradually as to stop discrimination, gender inequality and domestic violence cases.

CONCLUSION

Dowry related offences such as accepting or giving dowry, dowry harassment or abuse, dowry death are most heinous crimes and shows the society's views towards women and gender inequality prevailing in the society, where men are still considered as superior however with the increasing awareness among people there is a growing change but due to several challenges and loopholes there is still continuation of the dowry system and therefore, more efforts should be made to reduce it.

BIBLIOGRAPHY

- Latha, K. S., and R. Narendra. "Dowry Death: Implications of Law." *Medicine, Science and the Law*, vol. 38, no. 2, April 1998, p. 153-156. HeinOnline.
- The Dowry Prohibition Act, No. 28 of 1961
- The Indian Penal Code, Act No. 45 of 1860
- The Indian Penal Code, Act No. 45 of 1860
- The Indian Evidence Act, No. 1 of 1872
- Sharma, B. R., et al. "Dowry - A Deep-Rooted Cause of Violence against Women in India." *Medicine, Science and the Law*, vol. 45, no. 2, April 2005, p. 161-168. HeinOnline.
- Banerjee, Priya R. "Dowry in 21st-Century India: The Sociocultural Face of Exploitation." *Trauma, Violence & Abuse*, vol. 15, no. 1, 2014, pp. 34-40. *JSTOR*, www.jstor.org/stable/26638331. Accessed 10 May 2021.
