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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**THE DEVILISH ACT: DOWRY DEATH BY BURNING**- Indu<sup>1</sup>**ABSTRACT**

Earlier there was a concept of Johor and Satipratha. In this ritual when husband of a female died she also has to burn alive with him in that fire. But in today's world it's happening for dowry newly married brides are burnt alive even their husband is alive. Death of a woman is caused by any burn or bodily injury within seven years of marriage and it is shown that soon before her death she was subjected to harassment by her husband or any of relative from her husband family. "Whoever commits dowry death shall be punished with imprisonment of not less than ten years which may extend to life imprisonment." Specific laws are made by the government to stop this such as section 2 of "dowry prohibition act" 1961 define dowry, section 304-B of IPC, 1980 define cruelty by husband or in-laws and 498-A of IPC. But there are many loopholes in legislation as many cases are not filed and many are still pending in courts. No proper investigation is done; many cases are closed by saying that it's an accidental death. To stop all this we should educate daughters so that they can live independently and make their own carrier. Government should stop this practice of giving and taking dowry for this strict action should be taken and girls encourage such women's to fight for their rights.

**INTRODUCTION**

Bride burning is the type of dowry harassment. The women are callused with gasoline or kerosene used in cooking stoves and set ablaze by the husband or any of his family members. These things help the accused in converting the crime into an accident. It's very ordinary and crucial issue in Indian rural areas as it's the case of public health problem. Supreme Court came

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up with a strict law to stop this shameful act. According to anti-dowry law Section 498A of Indian penal code in 1983 the crime is considered vulnerable act, if proven is usually punished by life imprisonment or hanged to death.

### **SOCIAL PRESCRIPTION**

Once a woman was considered embodiment of all the virtues but with the passing of time, in this benevolent society she has been discriminated against and victimized by the male dominated society, social reformers fought for her dues and legitimate place and status in society.

In country like India, where women are seen as housemaids and tied by many social barriers. They are suffering with the assassin society such as child marriage, exclusion of widows in temples and other religious places, constraint on remarriage, dowry death and many more.

### **DOWRY**

“Dowry is the wealth transferred from the bride’s family to the groom or his family”. It is clearly defined in section 2 of Dowry Prohibition Act, 1961

### **CASES**

**Vinod Kumar Sethi vs. State of Punjab**<sup>2</sup> “it states that a voluntary and affectionate giving of dowry and traditional presents would be apparently out of ambit of dowry.”

“It is not necessary that there will be any agreement for dowry. When demands for household items and vehicles are made from bride and her parents after marriage it is held that the demand is in connection with marriage” held in **Praveen Kumar vs. state of Haryana**.<sup>3</sup>

### **DOWRY PROHIBITION ACT, 1961**

The Dowry Prohibition Act came into force on 1<sup>st</sup> July 1961. The Act applies to all Indian citizens, Hindus, Muslims, Sikh, Jains or any other community or religion. It extends to the whole India without consideration of cast, creed and gender. India except the domiciles of Jammu and Kashmir, and also excluding the dowry or Mehr received or given under the Muslim personal law. The commission is done by a Muslim, which is beyond the exemption provided to them under Section 2 of this act.

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<sup>2</sup> AIR P H 372

<sup>3</sup> AIR 1998 SC 2628

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## **DOWRY DEATH BY BURNING**

Dowry death is defined in Section 304-B of IPC, 1983, where death of bride occurs due to burn, bodily injuries or other than normal circumstances within seven years of her marriage, as soon before her death she was subjected to cruelty harassment by her husband or any of his family member for not fulfilling their demand of dowry. Such kind of death is considered as dowry death. Sections related to dowry death are (304-B, 498-A, 113-A, 113-B) Of IPC.

For this kind of act the offender will be punished for minimum seven years of imprisonment to maximum life imprisonment.

Slowly and gradually dowry death is engulfing the whole society. The act like suicide by burning, hanging, poisoning or drawing are mainly adopted by the newly married women as they are the victims of dowry demand.

Nowadays the unnatural death of newly married women is catching the attention of every newspaper headline. The bride is tortured physically and mentally by groom and his family for not fulfilling their demand of dowry. Some of them are murdered by their in-laws and rest commits suicide. The most common way used in India is burning so that if they are caught they can easily give the excuse of kitchen accident like blast in gas cylinder. Mainly groom and his family members kill the bride by applying pressure on neck in the form of suffocating or throttling, this is rare but these methods are brought into play as this helps the offender to hide the findings of asphyxia or injuries over body and neck.

### **Ashok Kumar vs. State of Rajasthan<sup>4</sup>**

Justice R.M. Sahai commended this: “bride burning is a shame of our society. Poor never resort to it. Rich do not need it. As it is basically an economic problem of class which suffers both from ego and complex-social ostracisation is needed to reduce increasing ailment of bride burning.”

## **ORIGIN OF BRIDE BURNING**

On the basis of four perspectives, as described in the report titled “The Elephant in the room is out of control- by Avnita Lakhani” we can know why bride burning came into existence and how it has succeeded. These theories describe the reasons that contributed to the rise of dowry as a whole.

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<sup>4</sup> 1991 (1) SCC 166

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Amongst the most culturally founded theories suggest that in any highly patriarchal social system such as India, a women's image and purpose is defined even before she is born, ultimately placing her inferior to men. Marriage changes everything; she is bound for lifetime to her husband and his will because "society mandates obedience to her husband".

There is another theory which says that consumerism, a primarily western ideal mainly founded in developing nation, has caused nations like India to become greedy. The demand for bridal dowry is increasing day by day in order to "keep moving up the social ladder". Lakhani also suggests that, "historically it has been rated that the dowry system may have been conceived as a way to distinguish Muslim from Hindu culture, creating a further divide within castes. A higher dowry would indicate a higher status and distinction from Islam, thus providing an incentive to demand larger dowry".

Finally some scholars argue that the dowry system came out of British rule and influences in order to distinguish "different forms of marriages" between casts when the dowry system was established between the higher casts, the British government sought to reinforce it in lower casts as means to eradicate their more ritualized marriages. Such forms of union were discredited until only upper caste marriage system was recognized.

### **LOOPHOLES IN EXISTING LAWS**

Every day 21 dowry deaths are reported across the country every day, but only 34.7 percent cases are decided in the court. In 2005 approximately 7,364 women died due to dowry harassment according to the National Crime Records Bureau (NCRB). Because of dowry pressure they are forced to commit suicide or burnt alive. Around 93.7 percent of the accused charge sheet is made by the police after registration of the dowry death cases, out of which only 34.7 percent has been convicted. Remaining cases are still pending in various courts. Crime rate is increasing every year. In national capital around 715 cases of dowry death has been reported in last five years. Approximately 3877 cases of cruelty done by husband and his family members have been registered in Delhi in 2016. Also 506 cases have been registered till 15<sup>th</sup> march 2019 in the city.

The dowry prohibition act 1961, "prohibits the request, payment or acceptance of dowry 'as considered for marriage' and dowry here is defined as a gift. Demanded or precondition for

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marriage.” There are many loopholes in the present laws according to experts view, thus need to make them stricter and should be followed by everyone. The desired results are yet to be achieved, in spite of the amendment made in the Dowry Act in 1983. As we see that judicial procedure in India is very slow. Investigation is not proper at the initial stage of case, this results in slow judicial proceeding, many things are given to the bride at the time of marriage such as jewelry, car, cloths and other times so that she can take care of her in her new home. Still the groom and her in laws demands more items after marriage also and if the bride’s family cant able to fulfill the demand they torture the bride and this results in dowry death.

### **MEDICO LEGAL ASPECTS OF DOWRY DEATH**

Police should register complaints without delay and should act promptly to prevent demolition of clues. Voluntary organization or superior authority should be approached in case of any delay in investigation by local police. However in some cases female give false information for dying declaration. This happens in situations if she is depressed, or continuously taking drugs. The main reason behind this which most women give is the insecurity about the future of their children. But court can’t give judgment on the basis of emotions same with the medico legal personnel or forensic experts. They also furnish the fact without their personnel intension. Another way of moving to correct judgment is the statement of their neighbors. They can give information about the treatment given to bride or may be the eye witness.

### **FORENSIC EXPERTS VIEW**

According to forensic experts is the bane for Asian society, mainly the developing countries. Fire accelerants such as kerosene and petrol are used, while kerosene is more frequently used, being more easily present as domestic fuel. For establishing evidences and proofs in such kinds of cases related to the homicidal burning, the collection of certain materials from the scene of crime plays a very important role. Such materials may include substances and things like clothing, carpets, bedding (sheets or pillows included), etc. on which traces of kerosene or other inflammable substances can be found, also soils can be used as evidence as there are chances that there may be an observation of such substances stained on. Such things or the collections should be sent with the other evidences like the burnt clothes of the victim for the forensic analysis to the forensic laboratory.

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The evidence collected from the scene of crime may be stored in a jar of glass packed tightly or may be packed in a polythene satchels so that the loss of traces of kerosene or inflammable substance can be prevented.

The detection of the smell of the substance that caused the fire like kerosene might be difficult as such smell may be hidden due to the odor created by the burning of the clothes which are were closely acquainted with the body of the victim or such odor might be a faint smell as compared to the other scents which would have been collected if taken within the time or before the lapse of the sufficient or reasonable time. The detection of the remainder or of what's left of the substance used for creating fire like the kerosene remains on such displays of the evidence is basically not based on the presence of free amount liquid kerosene hydrocarbons, as those are the ones that have been used and lost due to burning or the process of evaporation due to the heat, but its detection is mainly and usually based on the amount of the solid hydrocarbon presents as the residue products, such as there is a presence of a substance known as alkyl naphthalene in the mostly used inflammable substance i.e., kerosene. Similarly in the, Petrol, i.e. the motor gasoline there is a presence of chemical substance known as the antiknock lead alkyls, these in return would leave lead as the residue product, but there might be no presence of any petroleum hydrocarbons found or lefts for the purpose of analysis. The use of the glass jars or the plastic or polythene wrapping bags or containers doesn't have any effect on the evidence i.e., it doesn't corrupt the chemical instrumentality of the samples so collected.

The general explanation of this may be expressed as that in basically all or most of the scene of crime and the criminal cases where there is an involvement of burning death or homicidal burning due to the use of inflammable substances such as kerosene or petrol, the results of finding or detection of residual substances and products of such substance that was used to start and create fire are positively and affirmatively found on the clothes and belongings which were intimate to the body of the victim although there was a sufficiently large amount of burning or on the other things and ,materials which were seized and collected as evidence from the scene of crime regardless of the fact that the process of evaporation took place and it evaporated most of the substances with it in the fire.

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However, in case where the result of the residual products came on negative despite of the use of some majorly sensitive technological instruments, like use of gas chromatograph for detection, such things related to sensitivity should be elucidated with care and proper attention. The degree of burning, loss on exposure even of (slowly volatile) solid residues before transmission to the laboratory, improper packing, improper selection of the piece or portion of garment (ordinarily, the whole garment should be sent to the laboratory), etc. may bring innegative results and this should not be misconstrued as fire accelerant like kerosene not having been used. The presence of soot, if any, especially on face and waist, should be given special consideration in such cases.

### **PROCESS OF INVESTIGATION**

The doctor should make a record of the history of the injuries and the persons responsible for it, when the victim is brought to the hospital, noting the time and the name of the person who gave the history. The condition of the victim should be recorded at frequent intervals. Care should be taken that no person has discussion with the patient before doctor records her statement to avoid any undue influence being exerted on her. A magistrate may be called to record the statement. Visit to the scene of crime by the doctors and forensic scientists are very helpful in determining the manner of death.

Inquest should be done a magistrate or police officer not below the rank of deputy superintendent of police, and autopsy should be carried out by two doctors in case of dowry death or if the age of the women is less than 30 years.

### **WOUND CERTIFICATE**

The casualty medical officer may be called upon to examine the injured person. Medico legal injury patient should be examined without delay at any time of day or night. All details of the examination of the injured person, whether admitted into the hospital or treat as outpatients have to enter in an accidental register, maintained in all govt. hospitals. This register is confidential record and should be in safe custody of the medical officer.

### **CONCLUSION**

After seeing all the criteria we can conclude that how crucial and fake our society has become that just for a piece of paper their hand does not shake while taking a life. This curse needs to be removed from the society with the help of govt, women welfare organization, public servants and

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judiciary. As for now police and judiciary has become strict about this, proper and immediate investigation is done with proper maintenance of records, forensic department is also doing their work more efficiently. They are playing a major role in solving the case by evaluating the case to minimize the likelihood of inaccurate diagnosis.

But before this we have to accept that dowry is a major root of coming life of a woman. And the solution begins from the home; one should educate their daughter so that they can work independently, gain the knowledge about their rights and fight for them at right time. Not only girls but boys should also be given manners and need to teach them how to respect a girl.



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