
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

A STUDY ON APRIORISM AS TO DOWRY DEATH¹**ABSTRACT**

The practice of dowry puts women's lives in grave danger. Dowry is a term used in Indian culture to describe property or valuable protection provided by one party to another as a form of marriage consideration. The primary source of dowry was the donation of the wife's family or herself, with the purpose of assisting the husband. The practice of dowry dates back to the middle Ages. During her marriage, women were given riches and jewels by their parents, which acted as a tool of financial freedom for the bride even after her marriage. Almost all violence against a married woman stems from this danger. The issue of dowry would almost always occur after a marriage. If the wife is unable to provide all that her husband and in-laws want, life in the groom's home becomes unbearable. She will be treated cruelly, and she may lose her life in some situations. This paper discusses dowry and the judiciary's assumption in cases where the wife dies within six months of the husband's death. The husband and his family bear the brunt of the blame in these situations.

Keywords: Dowry, Presumption, Violence, Women, Independence

INTRODUCTION

The issue of brutality against women in Indian society is still present; domestic violence against women in India is rooted in the demand for dowry. We have seen a plethora of crimes against women, including dowry death, since time immemorial. There is no distinction between rich and poor, educated and uneducated families when it comes to dowry. When a marriage is set, no one cares about the girl's intelligence, homeliness, or intelligence; all that matters is how much money and luxuries she will get at her husband's house. We've probably all heard of instances where a woman has died as a result of a dowry demand. It is a disgrace to a society when a woman dies because she is unable to provide dowry, and it is also a disgrace to a society

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where dowry is still practised². Section 113B of the Indian Evidence Act, 1872 is nothing but it concerns with the presumption of dowry death. With the passage of time, dowry became a customary part of Indian society, and men began to demand dowry as their right to marry a woman. As a result, when the groom's family did not receive enough dowry, brides were harassed or cruelly treated, and dowry deaths occurred, especially in certain parts of India. Dowry demands have a physical, economic, and cultural effect on women's lives. According to section 2 of the Dowry Prohibition Act 1961, dowry is characterized and defined as "property brought by a spouse/wife to her husband at the time of marriage, including land, all kinds of properties, valuable securities provided or agreed to be given directly or indirectly at the time of marriage." Dowry, also known as Kanyadanam, is an integral aspect of Hindu wedding rituals. According to Section 304B of the Indian Penal Code, a woman's death would be considered a dowry death if she dies within seven years of marriage from any burns or bodily harm, or if it is discovered that before her marriage she was subjected to cruelty or abuse by her husband or any other relative of the husband in accordance with the demand for dowry³. However, under section 3 of this Act, both the giver and the receiver are sought to protect themselves from abuse by the husband and his family. The dowry prohibition Act of 1961 was the first national legislation to address the issue of dowry, with the primary goal of preventing excessive dowry demand.

DOWRY DEATH AND SUICIDE

At the point when a woman dies because of or as a result of burns or bodily harm, or in any case than under usual circumstances, within seven years of her marriage, and it is shown that she was exposed or subjected to brutality and violence by her husband or some relative of her husband for or regarding the interest or demand for dowry, the demise/death is referred to as "dowry death⁴." The Dowry Prohibition Act goes to great lengths to make the giving or taking of dowry as a condition for marriage, as well as demanding or abetting it, illegal. The law was enacted to combat dowry abuse and commercialization. As a result, the Act's definition was tailored to the specific goal of preventing extortionate conduct. This practise is stated in the

² Arshdeep Singh Bali, 'Dowry Death' International Journal of Science and Research, Volume 8; Issue 5; May 2019. <<https://www.ijsr.net/archive/v8i5/29041901.pdf>> accessed 19 April 2021.

³ Mrs. Deepa Muduli, 'WOMEN AS DOWRY VICTIMS: A LEGAL STUDY' GLOBAL JOURNAL FOR RESEARCH ANALYSIS, Volume 7; Issue 3; March 2018. <https://www.worldwidejournals.com/global-journal-for-research-analysis-GJRA/recent_issues_pdf/2018/March/March_2018_1521007479_55.pdf> accessed 20 April 2021.

⁴ Pragnesh Parmar, 'Dowry Death and Law- Indian Scenario' IAIM Journal, Volume 1; Issue 2; October 2014, Page No: 44-49. <<http://iaimjournal.com/wp-content/uploads/2014/10/6-dowry-death-and-law-indian-scenario.pdf>> accessed 22 April 2021.

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oldest Hindu scriptures and is still practised today with even more zeal. One of the major contributing components thwarting the growth of Indian culture is the exploitative system that has turned the custom of giving endowments and well wishes into a mandatory interest for cash, regard, and enslavement. A saying goes that "relational unions are made in heaven." A lady of the hour departs from her parental home for the marital home, leaving behind sweet memories in the hopes of discovering a new world filled with love in the home. The alarming rise in the number of cases involving badgering newly married young ladies for settlement shatters dreams. Outlaws are depicted as in laws for conducting a fear mongering campaign that destroys the marital home. It has been drilled almost everywhere in the country and by nearly all in the general public.

In *Prem Kumar vs. State of Rajasthan*⁵, the Supreme Court states that since section 3 prohibits the demand, acceptance, or payment of a dowry as consideration for a marriage, where dowry is specified as a gift requested or given as a precondition for a marriage, it is not always necessary to have a dowry agreement. Taking or giving dowry is punishable by a six-month prison sentence, a fine of up to fifteen thousand rupees or the dowry sum, whichever is greater, or a five-year prison sentence. However, under section 3 of the Act, both the giver and the recipient are pursued and prosecuted. Section 4 of this Act also makes it illegal to demand dowry.

In *S. Gopal Reddy vs. State of Andhra Pradesh*⁶, the Supreme Court states that despite the fact that the demand was made before the marriage, it must be considered a violation of section 4 of the Dowry Prohibition Act. The court held in this case that the mere demand of dowry is sufficient to carry the offence home to an accused, and that any demand of property or money made from the bride or her family by the bridegroom or his parents, or vice versa, will be considered dowry troubles under section 4 of the DV Act. The Supreme Court made the significant contention that the marriage for this case will incorporate a potential marriage that is much more special and exceptional, where the non-satisfaction or non-fulfilment of the dowry demand brings about the marriage not occurring by any means.

In case *Naresh Kumar vs. State of Haryana*⁷, in her suicide note, she stated that no one was responsible for her death, and that all doors were closed to her and that she had no other choice. The court held that only because it is written in the suicide note that no one was responsible cannot be taken as definitive proof that there was, in fact, no one responsible because all of the available evidence categorically indicates that the husband and his relatives demanded dowry

⁵1991 WLN UC 129.

⁶ 1996 SCC (4) 596, JT 1996 (6) 268.

⁷(2012) 9 SCC 330.

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and were subjected to ill-treatment.

1. PRESUMPTION AS TO DOWRY DEATH⁸

The terms "dowry death" and "dowry murder" were first used in 1977-78, when inquiries revealed the deaths of married women, which had been mislabeled as accidents or suicides by the police for years, were actually murders or assisted suicides, followed by prolonged physical and mental abuse by the husband and in-laws in connection with dowry demand. The Section 113B Indian Evidence Act, 1872 states that Presumption as to dowry death Where the question is whether a person caused the dowry death of a woman, and it is shown that such woman was subjected to cruelty or abuse by such person shortly before her death for, or in connection with, any demand for dowry, the court shall conclude that such person caused the dowry death.” In order to prove two things in the case of a woman's death, this section states that two things must be proven. First, she was subjected to cruelty or harassment shortly before she died, and second, the cruelty or harassment was related to the dowry demand. Since Section 113B uses the term "must" rather than "may," it is a legal presumption. The court must lift a presumption that the accused caused the "dowry death" if the basics stated above are proven. If the necessary ingredients are proven, the court has no discretion in drawing the presumption under this Section. Though this may seem to be a radical deviation from established criminal law standards, the legislature has made this presumption a mandatory presumption of law, which is, of course, rebuttable. If the evil of dowry deaths is to be eradicated from the foundations of our culture, the legislature believes that the presumption under Section 113 B should be a mandatory presumption.

2. ESSENTIALS OF SEC 113 B

In the case of *Kaliyaperumal vs. State of T.N*⁹, four essentials/requisites were given as follows,

1. The Court must determine if the accused is responsible for a woman's dowry death. This means that the presumption can only be lifted if the accused is facing charges under Section 304B of the Indian Penal Code.
2. The said women' husband or his family had treated her cruelly or harassed her.

⁸Keerthan M. Murali, Arya. R, 'A STUDY ON PRESUMPTION OF DOWRY IN INDIAN EVIDENCE LAW' International Journal of Pure and Applied Mathematics, Volume 120; No. 5; 2018, Page No: 157-168. <<https://acadpubl.eu/hub/2018-120-5/1/32.pdf>> accessed 21 April 2021.

⁹ AIR 2003 SC 3828.

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3. Such cruelty or abuse was in response to or in connection with any dowry demand.
4. Soon before her death, she was subjected to such cruelty or abuse.

In the case of *Sultan Singh vs. State of Haryana*¹⁰, Section 113B gives rise to an assumption. However, since the presumption in this section is a legal presumption, the court is obligated to take the presumption that the accused caused the dowry death if the necessary conditions of this section are met. The onus does not move to the defence if all of the section's basics are missing.

In the case of Public Prosecutor, *A.P High Court vs. T Basava Punnaiah*¹¹, it was not under usual circumstances that the death was caused by asphyxia due to hanging within three years of marriage. Where brutality or abuse by the husband or any of his relatives is proven, the court held that it will fall under the purview of section 304-B of the Indian Evidence Act.

In case of *Kamish Panjiyar vs. State of Bihar*¹², The deceased wife's neck had black stained rough skin on both sides, and the doctor conducting the post-mortem observed blood-stained fluid trickling from the side of her mouth, and her brain matter was found congested. The Investigating Officer had also seized a blood-stained pillow. Since there was no proof that the death was caused by natural causes and the witnesses' testimony formed the demand for dowry and ill-treatment shortly before the death, the presumption under this section was available.

5. CRUELTY AND HARRASMENT

Traditionally, women have been exposed to man's whims and caprices, which is exacerbated when it comes to husband-wife relationships. A woman's life in her family or in her relationship with her husband may often become unbearable and unhappy, leading her to consider suicide. Cruelty or violence is described differently in each case. It varies from person to person because it is determined by one's attitude. Physical cruelty and emotional cruelty are two forms of cruelty. Mental cruelty involves insulting or ridiculing a woman, restricting her mobility, denying her access to the outside world, threatening her or her loved ones, and so on. Only a married woman may use Section 498-A of the IPC to sue her husband or his family for cruelty¹³. Section 498-A of the IPC was added to safeguard and protect women from dowry related violence such as threats, pattern of acts of assault, sexual coercion, oppressive conduct at home otherwise called as domestic violence and mercilessness or cruelty by husbands or in

¹⁰ CRIMINAL APPEAL NO. 1366 OF 2010, On 26 September, 2014.

¹¹ I (1990) DMC 466.

¹²(2005) 2 SCC 388.

¹³ Anis Ahmad, 'Dowry cruelty and Dowry Death' Law Times Journal, February 12, 2021. <<https://lawtimesjournal.in/dowry-cruelty-and-dowry-death/>> accessed 24 April 2021.

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law of wives. And also this section punishes the husband or relative of the husband of a woman who has been exposed or subjected to cruelty. Any act of physical or mental cruelty has the potential to leave an indelible mark on a woman's mind. If her dignity is affected in some way, such memories will have a lasting effect on the person's mind. However, in this section, cruelty and harassment refers to a pattern of behaviour over time rather than a single incident.

Harassment with the intent of pressuring the woman or her relatives to give some land; or harassment because the woman or her relatives are either incapable of yielding to the demand for more money or refuse to give some share of the property. The Supreme Court stated that, in order to bring home the application of section 498-A of the IPC, the consequences of cruelty that are likely to force a woman to suicide or cause grave injury or danger to her life, limb, or health, whether mental or physical, must be identified. According to Section 498-A of the Indian Penal Code (IPC), whoever is the spouse/husband or relative of the husband of a woman who subjects her to any kind of cruelty is deserving of detainment that is punishable for a time period of three years and a fine. According to clause (b) of the Explanation to that section, harassing a woman with the intent of coercing her or any individual related to her to meet any unlawful demand for property or valuable protection, or on the basis of her or any person related to her failing to meet such demand, constitutes cruelty for the purposes of section 498-A, IPC¹⁴.

In *Vijeta Jagra v. State of NCT Delhi*¹⁵, The term "relative" in section 498-A IPC was interpreted to mean only blood relatives and marriage ties. In the clarification to section 498-A, which consists of two clauses, namely Clause (a) and Clause (b), the word cruelty of the IPC has been clarified (b). Cruelty or abuse of a wife was intended to induce her to commit suicide or cause serious bodily harm to herself, or to compel her to comply with an unlawful dowry demand. Section 498-A, 7 IPC, applies to any form of abuse or cruelty that may not otherwise be prosecuted. Cruelty may take the form of either mental or physical abuse. Since cruelty is a relative concept, it's difficult to pigeonhole it with a description. What one person considers cruel might not be considered cruel by another. If a complainant wishes to be covered by Clause (b) of Explanation of Section 498-A, she will succeed if it can be shown that the husband or any of her relatives made an "illegal demand" for money or other valuable protection. Harassment of a woman with the intent of forcing her or someone connected to her to comply with any unreasonable demand for property or valuable protection will also be considered cruelty.

¹⁴ "Cruelty" means: Any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.

¹⁵ (2010) 11 SCC 618;

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6. ABOUT 'SOON BEFORE'

There is no definition for the word "soon before." According to the clause, the brutality or abuse must occur shortly before the death of the deceased in question, and only then can we conclude that the death was caused by dowry. The word is subjective, and how soon is equal to "soon before" is left to the court's discretion. The time between the cruelty or harassment and the death of the person in question should not be too long, so that the consequences of the cruelty or harassment may be reasonably assumed to have passed.

In the case of *Keshav Chandra Panda vs. State*¹⁶, It was said that the word would usually mean that the time between the cruelty or abuse in question and the death in question should be short.

In the case of *Premchand Mahato vs. State of Jharkhand*¹⁷, before returning to her in-laws, the deceased wife told her parents that she was being mistreated by them, and she died after a month. In this case, the court determined that the lady was subjected to abuse or threats "soon before" she died.

In the case of *Sham Lal vs. State of Haryana*¹⁸, after a disagreement between the husband and the wife, the wife went to her father's home. The lady died 10-15 days after the conflict was settled, and there was no proof that she had been treated cruelly or harassed in the days leading up to her death. The court ruled that the presumption of dowry death could not be used in this case.

7. CONCLUSION

The legislative aim is clear: to put a stop to the threat of dowry deaths and other dowry-related deaths. It is important to note that while most crimes are committed in the privacy and confidentiality of private residences, obtaining independent and direct evidence is difficult. The death of settlements is a daily problem in Indian culture. It must be understood that the desired result cannot be achieved solely by enforcing the law against dowry. This social stigma must be combated through a multipronged and coordinated strategy by police, women's rights organisations, government staff, and legal authorities, as well as the imposition of hindrance discipline on all guilty parties. That is why the legislature attempted to reinforce the prosecution's hands by adding Section 113-B in the Evidence Act, which allows a presumption

¹⁶ Criminal Appeal 91 of 1993. Decided On, 21 July 1994

¹⁷ 2005 (2) BLJR 1552, 2005 CriLJ 3672, II (2005) DMC 624, 2005 (3) JCR 253 Jhr.

¹⁸ AIR 2019 SC 1898.

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to be raised if some foundation facts are identified and the tragic incident occurred within seven years of marriage. This seven-year period is thought to be the most tumultuous, during which the legislature believes the couple has settled down in life. Where the issue is whether a person is guilty of dowry death of a woman and the evidence shows that she was subjected to cruelty and/or abuse immediately before her death for, or in connection with, any dowry demand¹⁹.

Likewise, educational as well as mindfulness projects should be composed during the early stages of marriage in order to prevent the partner from consuming mixers, drugs, or on the other hand betting, confining to monogamy, and earning money honestly by hard work rather than having a desire for income work. As far as we can tell, a rational and common sense solution to the aforementioned problem would be extremely beneficial. The lady's family pays settlement to the husband or his family in the form of money and goods such as adornments, family unit apparatuses, and automobiles. Others have been murdered by their significant others or in-laws for failing to fulfil their settlement demands. According to India's national wrongdoings intelligence agency, about 8,000 settlements are registered each year. The court shall assume that such individual caused the dowry death, according to Evidence Act Section 113-B. On Monday, a product developer in Hyderabad was said to have hanged herself after being harassed by her better half for settlement instalments, despite the fact that her family had officially given him arrival and generous measures of gold and money at the season of marriage.

¹⁹ SnehYadav, 'Dowry death and access to justice' International Journal of Law, Volume 1; Issue 1; November 2015; Page No. 59-63. <<file:///C:/Users/User/Downloads/3-1-40-200.pdf>> accessed 25 April 2021.

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