



### Dowry Death and Law- in India

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#### ABSTRACT

Dowry death is a burning issue of the Indian society since years. The unnatural death of newly married young woman due to dowry is routine headline of every newspaper and television news. Protection of young married women against harassment and cruelty on account of dowry is responsibility of government. There are some laws for such crime in India. Ban of giving and taking dowry - the Dowry Prohibition Act, 1961, is the one which is most commonly challenged since its commencement all over the country. To deal with this section 304 - B (Dowry deaths) and 498 - A (Cruelty by husband or in-laws) were incorporated in the Indian Penal code in the mid 1980's. Improvement of educational status of females and society willing for dowry by educational cum

awareness programs along with severe punishments to offenders will be helpful to deal with this social crime.

**Key words** - Dowry death, Law, Indian penal code, unnatural deaths

#### INTRODUCTION

Dowry and related crimes even death at the end is a burning issue of the Indian society since years. It is increasing day by day due to social inheritance, traditional mentality, illiteracy and life style in the family. Dowry death is a big challenge to the modern society, moral values, police, and forensic experts as well as to legal officers and justice not only to eliminate this social hazard but also to punish the culprits in effective manner to make the society free from such crimes forever.

In majority cases of married woman killing or burning of married woman or

dowry death, problem is created by the female themselves with the help of sown son daughter against their own sex. It has been usually found that approach of mother in law is different from that of the bride's mother.

Initially at the time of marriage, money is given by bride's family as per demand of the in laws but later on desire of dowry is increasing extremely high which is followed by torture of married woman and ends up in her death. In other words, in bride burning cases, crime is normally abetted and even committed by the females themselves.

The unnatural death of newly married young woman due to dowry is routine headline of every newspaper and media even today. Self burning by females after death of her husband in Hindu community is traditionally accepted and matter of proud as in 'Sati- Pratha' or 'Joher'. But nowadays, large number of newly married young women are burnt alive by their husbands and / or in laws or forced by them to end their unhappy life, while a few others are killed first and then burned to hide the crime. In majority of these cases, dowry is the prime motive behind this terrible crime.

#### **DOWRY DEATH:**

- Where the death of a woman is caused by any burn or bodily injury, or occurs in a manner other than under normal circumstances within 7 years of her marriage.
- It is shown that she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with any demand for dowry, such death is called dowry death (**Sec. 304-B IPC**).

Protection of young married women against harassment, physical torture and cruelty on account of dowry is responsibility of government. Social organization, N G Os, social workers and media may also effectively contribute by developing awareness regarding this issue and mobilizing the support of society against this criminal activity and its fear. We all need to fight together to end this social crime forever to bring new happy peaceful life of married women.

#### **LAWS IN RELATION OF DOWRY DEATHS**

In view of the increasing number of dowry deaths, guidelines have been laid down by the Government of India for examination of such cases, and the law in respect thereof has been suitably amended. The Indian Penal Code (I.P.C.), Criminal Procedure Code (Cr.P.C.) and Indian Evidence Act (I.E.A.) are amended as per the criminal law (Second Amendment) Act, 1983 and was approved by President of India to deal effectively with cases of dowry deaths and also the cases of cruelty to married women by their in laws.

#### **1. IPC Section 304 - B deals with dowry death**

- When the death of a married woman is caused by any burns or bodily injury or occurs under abnormal or suspicious circumstances within seven years of her marriage or if her age was less than 30 years at the time of her death, and it is clearly shown that soon before her death. It is shown that she was subjected to cruelty or harassment by her husband

or any relative of her husband for, or in connection with any demand for dowry, such death is called dowry death (**Sec. 304-B IPC**) and such husband or relative or in law shall be deemed to have caused her death. Whoever commits dowry death shall be punished. It is a cognizable and non-bailable offence and punished with imprisonment from 7 years to life imprisonment.

**2. Sec. 498-A IPC: A deals with husband or relative of husband of the woman subjecting her to cruelty**

- Whoever, being the husband or the relative of the husband of a woman, subjects her to cruelty, is punished with imprisonment for a term which may extend to 3 years and also fine.
- The offence is non-bailable and non-compoundable.
- 'Cruelty' is any conduct likely to drive the woman to commit suicide or to cause injury or danger to life, limb or health (mental or physical); or harassment with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security.
- To prevent the misuse of Sec. 498-A IPC, Supreme Court directed the State governments to ensure that the police would have to give reasons and proof to Magistrate before making an arrest in dowry harassment cases.

**3. CrPC Section 176(1) provides inquest by executive magistrate and CrPC section 174(3) provides**

**as follows**

- The case involves suicide by a woman within seven years of her marriage
  - The case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman, or
  - The case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf, the police officer will forward the body for autopsy to the nearest medical officer for opinion.
- 4. IEA Section 113 - A deals with presumption as to abetment of suicide by a married woman**
- When the question is whether the commission of suicide by woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and her husband or such relative of her husband had subjected to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.
- 5. IEA section 113 – B deals with presumption as to dowry death**
- When the question is whether a person has committed the dowry

death of a woman and it is shown that soon before her death, such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.

#### ✚ **MAGISTRATE INQUEST IN DOWRY DEATH**

In dowry deaths, investigating officer plays a very important role to bring out justice as well as on other hand to save the husband or in laws if at all they are not guilty for the offence and are falsely being caught up in trap. He has to investigate every dowry death case with consideration of both mental and physical torture which has been imparted on the victim by the husband and/or in laws over a long period which has ended in suicide by the lady.

#### ✚ **FORENSIC EXPERTS AND DOWRY DEATH**

Forensic experts come into picture only when dowry death cases are sent to them for post-mortem examination for obtaining necessary opinions. In doctor's view, dowry death cases are like any other unnatural female death cases yet. Forensic expert, as a rule, must try his level best to find out the cause of death only on the basis of scientific facts observed in any given case and not on assumptions or predetermined

concept. Firm devotion to the approved code for the conductance of post-mortem in dowry death cases should be observed. Try to find out the cause, nature of death and time since death and other relevant facts from the medico-legal point of view to help justice. Presence of a lady doctor in the autopsy team is must to visualise and explore all angles although each case is unique. Most of the victims are young married women who are usually labeled as accidental deaths, but actually these are not accidental cases but are of homicidal in nature. So it is the principal duty of forensic experts to look for the exact cause of death on the basis of relevant data and diagnostic criteria in scientific manner and approach

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

Some of the vital medico-legal aspects which warrant notice have been dealt in here to think over the delicate situations faced by forensic experts in their routine practice. The primary aspect is that not only the police should act immediately to avoid demolition of essential clues at the scene of crime but also police should act promptly in registering all such complains without delay. If a special task force / cell are maintained then this should also be informed for timely investigations of each case. Secondly, if local police is lagging

behind delaying policy then either the superior officers are approached or voluntary organizations be approached for the proper investigation to be done. Involvement of media also focuses a strong awareness about the occurrence of crime. If the victim is alive after the incident then prompt efforts should be made to record a declaration by a competent authority.

Dying declaration has legal validity as the Indian law presumes that a person who believes that her death is imminent will tell only the truth and never lies. However, in our opinion, in certain situations female victims who make dying declaration, may give artificial information, particularly if the lady is continuously tortured for years together or else is severely depressed or under the influence of drug or wants to secure the future of her children. Strangely, these aspects have not been satisfactorily probed by the courts. The courts never consider the emotional dilemmas faced by these victims who are giving dying declarations. Judiciary should take a fresh look at the trustworthiness of dying declarations, in particular, once the truthfulness of a dying declaration has been criticized by scientific facts.

The law should give recognition and preference to the scientific facts and not to the dying declaration. Moreover, the victim's purpose in making a deathbed

declaration is either to protect the interests of her children or other relatives while the medico-legal personnel, pathologist or the forensic experts furnish facts without any motives and in the interests of society to assist the administration of justice.

#### **SUMMARY**

Dowry death is a burning day to day problem of the Indian society. It should be accepted that wanted result can't be gained by enactment of law alone against dowry. This social curse has to be attacked by a multipronged and organized approach by police, women welfare organizations, reputed public servants, and judiciary and by awarding deterrent punishment to all offenders. Nevertheless, an improvement of educational status of the females and providing easier job opportunities at the door step or self employment facilities will help to restrict the incidences of dowry deaths. In addition, educational cum awareness programs should be designed right at the time of marriage so as to stop the husband from consuming liquors, drugs or gambling, restricting to monogamy and earning money honestly by sheer hard work rather than developing lust for easy money. In our opinion, a rational and practical approach on the above mentioned matter will certainly be helpful.

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