



## DOWRY DEATH AND LAW

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## ABSTRACT

*Dowry death is a burning issue in India. In spite of all the stringent laws and campaigns against dowry, statistics on dowry-related deaths in the country have increased over the years. Despite a rapidly expanding middle class, enviable economic growth and measurable strides in modernization since India's 1947 independence, dowry deaths continue to rise year on year. Ban on giving and taking dowry the Dowry Prohibition Act, 1961, is enacted. To strength the law section 304 –B was incorporated in the Indian Penal Code. This paper has made an attempt to analyze the legal provisions to curb the menace and emphasize the improvement of educational status of females by educational cum awareness programs along with severe punishments to offenders which will be helpful to deal with this social curse*

KEYWORDS : Dowry death, Law.

## INTRODUCTION:

## Statutory Provision for Dowry death:

The Dowry Prohibitions (Amendment) Act, 1986(w.e.f. 19-11-1986) has inserted a new section in the Indian Penal Code creating a new offence of dowry death. Sub section 1 of Section 304B defines the offence of dowry death as- "Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death 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 shall be called dowry death, and such husband or relative shall be deemed to have caused her death".

## Punishment

For a person guilty of "dowry death" has to be for a term of imprisonment which shall not be less than seven years but which may extend to imprisonment for life.

The Supreme Court in the case of State of Himachal Pradesh v. Nikku Ram<sup>1</sup> interestingly started off the judgment with the words '**Dowry, dowry and dowry**'. The Supreme Court went on to explain why it has mentioned the words 'dowry' thrice. This is because demand for dowry is made on three occasions:(i) before marriage;(ii) at the time of marriage; and(iii) after the marriage.

## Ingredients of Section 304-B:

1. When the death of a woman is caused by any burns or bodily injury, or occurs under unusual circumstances.
  2. And the aforesaid two facts spring within 7 years of the girl's marriage.
  3. And soon before her death, she was subjected to cruelty or harassment by her husband or her relative.
  4. And this is in connection with the demand for dowry.
- If these conditions exist it would constitute dowry death, and the husband and/or his relatives shall be deemed to have caused her death.

*In Satvir Singh and others. V.State of Punjab and another,*<sup>2</sup> the Supreme Court held: that it is not enough that harassment or cruelty was caused to the woman with a demand for dowry at some time, if Section 304B is to be invoked it should have happened "soon before her death".

*In Kamesh Panjiyar Alias and Kamlesh Panjiyar v. State of Bihar,*<sup>3</sup> it was held that a conjoint reading of Section 113-B of the Evidence Act and Section 304B of IPC shows that there must be material to show that soon before her death, the victim was subjected to cruelty or harassment. Discussing above noted cases as well as other decisions and 91st report of the Law Commission, the apex court in *Suresh Kumar Singh v. State of UP,*<sup>4</sup> decided on 6/5/9 held that: "Some harassment which had taken place one year prior to the death without something more, in our opinion, could not have been considered to be a cruelty which had been inflicted soon

before the death of the deceased. It does not satisfy the proximity test." In this case since unnatural death was occurred after 7 yrs of marriage the supreme court set aside the conviction under Section 304B but upheld the conviction under Section 498 A of IPC.

*In Syam Lal v.State of Hyryana,*<sup>5</sup> it was held that the appellant could not be convicted under Section 304B and also the legal presumption under Section 113B of the Evidence Act cannot be invoked because there was no evidence to prove that soon before her death However, basing on evidence of deceased's father and the dying declaration which is admissible under Section 32 of Evidence Act, conviction under Section 498A of the IPC is sustainable.

It was observed in *Raja Lal Singh v. State of Jharkhand,*<sup>6</sup> that the expression soon before death occurring in Section 304B, IPC is an elastic term. It can refer to a period either immediately before death of deceased or within a few days or few weeks before death. What is relevant is there should be perceptible nexus between death of the deceased and dowry related harassment or cruelty inflicted on the woman concerned.

*In Meka Ramswamy v. Dasen Mohan,*<sup>7</sup> it was held by the Supreme Court that, if the wife dies within four months of marriage and there is absence of demand of dowry as well as ill-treatment, the husband and his family cannot be held liable under Section 304B, of I.P.C.

*In Harjit Singh v. State of Punjab,*<sup>8</sup> wife of accused died due to poisoning within 7 years of marriage. There was no evidence showing that deceased was subject to cruelty or harassment by the appellant. It was further pointed out that presumption arising either under Section 304B or Section 113B of Evidence Act could not be invoked against appellant.

*In Pawan Kumar v. State of Haryana,*<sup>9</sup> the deceased, the wife of appellant died of burn injuries within 7 years of marriage. The Supreme Court held the appellant liable for causing dowry death under Section 304B and Section 498A as well as for abetting suicide under Section 306, IPC as because of his treatment the wife had committed suicide.

*In Bhagwan Das vs . Kartar Singh and others,*<sup>10</sup> the Supreme Court held that if the suicide was due to demand of dowry soon before her death, then Section 304-B Indian Penal Code, 1860 may be attracted whether it is a case of homicide or suicide<sup>11</sup>.

*In Balwant Singh and ors. v. State of Himachal Pradesh,*<sup>12</sup> by the Hon'ble Judges Sri Arijit Pasayat and Mukundakam Sharma of Supreme Court that *accused acquitted under Section 304B IPC can be convicted under Section 498A IPC as both the sections cannot be held to be mutually inclusive.*

*In Sabitri Dei and another. v. State of Orissa,*<sup>13</sup> this appeal was directed against the judgment and order of conviction and sentence passed by the learned Additional Session Judge Khurda, convicted

the appellant under Section 498A/304B IPC and Section 4 of Dowry Prohibition Act and sentencing each one of them to imprisonment for life under Section 304B, imprisonment for one year and six months each of them under Section 498A IPC as well as Section 4 of D.P. Act.

In **Prahalled Budek v. State of Orissa**,<sup>14</sup> it was held that, in absence of proximate and live link between the effects cruelty based on dowry demand and concerned death, offence under Section 304B cannot be said to have been established.

In **Premenanda Sahu v. State of Orissa**,<sup>15</sup> the criminal appeal was directed against the judgment and order of conviction passed by Second Additional Sessions judge, Cuttack, convicted the appellants under Section 498-A and 304-B IPC and under Section 4 of D.P. Act and sentenced life imprisonment under Section 304B, 2 years imprisonment under Section 498-A of IPC and 1 year imprisonment under Section 4 of D.P. Act.

The court held that there exist proximate and reliable link between the effects of the cruelty based on dowry demand and the death of the deceased. Therefore the judgment and order for conviction and sentences awarded against the appellants were confirmed. Accordingly the appeal was dismissed.

In **State of Rajasthan v. Jaggu Ram**<sup>16</sup>, this appeal was directed against the judgment of the learned judge of Rajasthan High Court. The Supreme Court held that the expression "soon before her death" having not been defined in either of the Statutes, on the basis of the facts and circumstances of each case, Court has to decide whether there was any proximate connection between the demand of dowry, the act of cruelty or harassment and the death.

In **Baldev Singh v. State of Punjab**,<sup>17</sup> the Supreme Court held that the expression "soon before" would normally imply that the internal should not be much between the concerned cruelty or harassment and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demanded and the concerned death.

In **Suresh Kumar Singh v. State of Uttar Pradesh**,<sup>18</sup> it was held by the Supreme Court that it is necessary for the prosecution to bring on record that the dowry demand was not too late and not too stale before the death of the victim. Proximity to death of the deceased is the pivot indicated by the expression 'soon before her death'. The legislative object is to emphasize the idea that her death should have been the aftermath of such cruelty or harassment.

### Conclusion and Suggestions:

1. **Awareness** : The first and foremost solution to the problem of dowry deaths is awareness, taking into account the illiteracy rates in India most of the women who are subject to the evil of dowry harassment are unaware of their legal rights.
2. **Education**: This is another approach to increase awareness by educating people about such issues and imbibing such social issues in to the curriculum of primary education.
3. **Stringent Punishments and speedy trials**: Imparting Stringent punishments to the people convicted of such crimes can also help to create a deterrent effect. Also, speedy trial system also works in favour of the victim and acts as a deterrent.
4. **Enforcement Mechanisms to be strengthened**: In the Indian scenario there are legislations like the Dowry Prohibition Act, the Indian Penal Code and also legislations like The Protection of Women from Domestic Violence Act, 2005 are in place but still the problem of dowry demand continues, thus it is high time that the enforcement of these legislations should be strengthened.

### END NOTES:

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