



WOMEN AS DOWRY VICTIMS: A LEGAL STUDY

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ABSTRACT

Women are victimized from womb to tomb. One of the means of victimization is demand for dowry and also killing for dowry this talk is true in case of dowry. The parents worry for the future which starts from the birth of the girl child because of dowry only. "If I don't kill her today; tomorrow she will kill me financially or someone else will burn her for the sake of dowry". This is the rationalization of a would-be-father of a female child, at the time of deciding a premature end for her. Dowry is the payment of cash or kind by the bride's family to the bridegrooms family along with the giving away of the bride in Indian marriage. To improve the condition of the women in society, the Government has taken many steps, enacting the specific provisions like The Dowry Prohibition Act 1961, Indian Penal Code, 1860 aim at prohibiting the demand, giving and taking of dowry, In spite of several legislations the practice of dowry and the phenomena of dowry deaths still prevail in India.

KEYWORDS : Dowry, Dowry death, legislation, status of women.

I. Introduction:

Dowry is a deep rooted social phenomenon. In Indian society it is a necessary adjunct of marriage. At present it is widely recognized as a great social evil and prohibited under law. Though it is not an essential part of marriage, but it seems to be an inseparable part of our society. Dowry is often a means of reflection of the social status of men. The practice of dowry, which was prevalent only among the Hindus, has now days spread to almost all the community. The custom of dowry first originated in the Vishay Hindu community. Later, it crept in to other Hindu communities. Subsequently, with passage of time when Muslims and other religious groups grew in India, this social evil spread to them affecting the entire fabric of our society. The people most affected by dowry are the poor, backward and the middle class families whose economic and financial resources are limited.

Like cancer, the dowry disease has spread at an alarming pace, so something needs to be done urgently to eradicate this evil. Amongst the many social problems India is facing dowry which appears to be the most heinous. India is a country where women are worshipped as 'sati' but at the same time she is burned physically, oppressed mentally and exorbitated financially. She is harassed by her in laws. According to Shirley Chisholm "The emotional, sexual, psychological and stereotyping of female begins when the doctor says it is a girl"

II. Status of women in ancient India:

Dowry was not prevalent in the ancient times, and the position of women was not always so bad in India. The status was not only equal but in certain cases the women enjoyed superior position to that enjoyed by men. Women were free to choose their partners in marriage. In nineteenth century not only in India but also all over the world, the women in Vedic era enjoyed liberty, equality, dignity and justice. This period was considered as the golden era for women. Dowry practises were not significant during the Vedic period. Gargai and Matruiy as well known for their pursuit of knowledge there after same evil practises like feoticide, infanticide, child marriage, and sati. The condition of widows was not so good, the patriarchal pattern of the society confined women to the status of an inferior sex, subordinate to their male counterpart. The women were treated like a slave or as thing, goods or commodity. They had no rights to live freely. The decline in the status of women came into that point; the age is described as dark-age for women's progress.

The impact of western ideas on Indian society in the century brought a new hope of ray for women. The social reformer likes Dayananda Saraswati and Raja Ramamohan ray, gave much stress to abolish the barbaric system like sati, and introduce widow remarriage etc. During nineteenth century especially after the emergence of Raja Ramamohan Ray on the social-political scenario

with Dayananda saraswati, Annie Besant, Pandit Rama Bai, founder of "Arya mahila samaj" Mahatma Gandhi, Kasturba etc, with their long struggle attention of Government could be drawn to the said plight and exploitation of women and new legislation were enacted to save women from the victimization of crimes.

Swami Bibekananda rightly said that "it is impossible think about the welfare of the world unless the condition of women is improved. It is impossible for a bird to fly on only one wing". This saying of swamiji is right because truly the women are inseparable part of a society.

India is perhaps only the one country where women are respected like goddesses (Devi) in human form. They are worshipped as "sakti" as mother (matta). Behind every successful man there is a woman, whether she is the mother of Abraham Linkon or M.k.Gandhi, Nepolion Bonapart and many more other great men in the history. The Indians called their wives 'Arhangini' which means half of his body. But Alas! Out of ten nine women are killed by their husband for demand of dowry only.

In India dowry is an inseparable part of the marriage. According to epic like Ramayan, Wife is verily the half of the husband Man is half ,not complete until he marries "ardhangini" and "Dharmapatni" a friend and right adviser to be associated with the husband in all religious rites and ceremonies. The Taittiriyah Sahimta is the same effect "half of she of the husband that is wife" Again Gandhiji said , "The wife is not the husband's slave but his companion and his help-mate and equal partner in all joy and sorrows-as free as the husband to choose her own path". "Manu said that once a man and women are united in marriage they must see that there are no differences between them and they remain faithful to each other.

III. Origin of Dowry:

It is difficult to say with certainty when and how the dowry system originated but some believe that it originated from Rome as wedding gift to a daughter's family. The original custom in Bangladesh was the bride price, called pawn, where the groom's family makes a payment to the bride's parents. This has gradually been replaced by the dowry, this transition in customs began in the 1960s, and by the early 21st century; the bride price has been supplanted by the dowry. Daughters did not normally inherit anything from their father's estate. Instead with marriage, they got dowry from their parents. The intention was to offer as much lifetime security to the bride as the parents could afford.

Before going into a detailed study of the dowry system, it is essential to discuss the concept and purpose of dowry system. In India dowry is an inseparable part of the marriage. According to Brahadha Narayank Upanishad, marriage was considered as a sacrament, a holy union of flesh with flesh, bone with bone and soul with soul to

continue even in the next world. According to epics like Ramayan, wife was considered as half of the body of husband "Ardhangini" and "Dharmapatni" a friend and right adviser to be associated with the husband in all religious rites and ceremonies. Again Gandhi said *"the wife is not the husband's slave but his companion and his help-mate and equal partner in all joy and sorrows-as free as the husband to choose her own path"*. Manu said that once a man and woman are united in marriage they must that there are no differences between them and they remain faithful to each other.

To be mother's women were created and to be fathers men. The Veda that dharma must be practised by men together with their wives in the marriage; the custom of giving dowry articles by the bride's family to the bridegroom's family on occasion of the arranged marriage is an ancient custom of India. At that time the dowry was not in the form of dowry. It was given as per the financial capacity of the bride's side as a token of love. But gradually it became a symbol of social status.

Stanley J. Tambiah claims the ancient Code of Manu sanctioned dowry and bride wealth in ancient India (Typically in Rohtak) and especially in Kadian family, but dowry was the more prestigious form and associated with the Brahmanic (priestly) caste. Bride wealth was restricted to the lower castes, who were not allowed to give dowry. He cites two studies from the early 20th century with data to suggest that this pattern of dowry in upper castes and bride wealth in Lower castes has persisted through the first half of the 20th century. In Pakistan, dowry is called Jahez in Arabic (derived from Islamic jahez-e-fatimi) Pakistan's Muslim community considers dowry as an obligatory Islamic practice. They cite sunnah of the Prophet to justify the practice of giving dowry as well as receiving dower (Mahr) The payment of dowry in Sri Lanka has a strong tradition, and has been connected to family violence. This practice of dowry is not only the problem of India alone now it has become an international problem.

IV. The meaning of dowry.

Dowry is the payment in cash or in kind by the bride's family to the bridegroom's family. Sometimes it is given to the bridegroom only of the bride in Indian marriage. The term for the dowry is called as "kanyadaan", it is very essential part of the Hindu marital rites. Dowry is derived from the ancient Hindu customs of "kanyadaan" and "stridhan". In "Kanyadaan" father of the bride offers the father of the groom Gold, property, money etc. Whereas for "Sridhan" the bride herself gets gifts and ornaments at the time of her marriage normally from her relatives.

Locally, dowry is called dahej in Hindi, jehaz in Urdu and Arabic, joutuk in Bengali, jiazhuang in Mandarin, çeyiz in Turkish, dot in French, dajjo in Nepali and in various parts of India. In Pakistan, dowry is called Jahez in Arabic (derived from Islamic jahez-e-fatimi) Pakistan's Muslim community considers dowry as an obligatory Islamic practice. They cite sunnah of the Prophet to justify the practice of giving dowry as well as receiving dower (Mahr) The payment of dowry in Sri Lanka has a strong tradition, and has been connected to family violence. In Odisha 'jautuka' is the payment in cash or in kind by the bride's family to bridegroom's family along with the giving away of the bride called kanyadana. Dowry is derived from 'varadakhina', the parents give to the bridegroom as gift.

Gandhiji pointing at the evils inherent in the Indian social system said *"It is good to swim in the water of tradition but to sink in them is suicide."* Dowry death is a shame on our society. The poor never resort to it; rich do not need it obviously because it is basically an economic complex. *"The love of money is the root of all evils"* Gandhiji preferred girls to remain unmarried all their lives but not humiliated and dishonored by marrying men who demanded dowry.

Whether dowry is a crime or custom. Most of the dowry deaths accused in the upper strata Hindu communities, Muslim, Christian or Buddhists, majority areas, dowry deaths are still not rampant. It is a Hindu phenomenon, that is now out of control due to various

reasons are like, The Society believes strongly in caste system and retention of caste system. The increasing greediness of the bridegroom and their family has led to dowry that has become now the symbol of status of the family so they are demanding more dowries.

Though the system is a painful practice for our society, it is legally banned still it is followed by almost all people of the society because there are some advantages of this practice. Dowry helps the newly married couple to establish their new home and support the financial problem of the poor groom. The motivation of the parents behind giving of dowry is pious, but in course of time the mentality of the people is changed. With the changing of mind this system leads to many disadvantages. It increases corrupt attitude of the parents to earn more money an illegal way. It leads to some immoral practices. Sometimes at the time of marriage the parents make false promises to the groom, on the non fulfilment of their demand. The in-laws do not hesitate to take away the life of the bride or that situation force the bride to commit suicide. For demand of dowry some girls remain unmarried and they fulfil their sexual urge, they decide to carry on the illegal sexual relation which pollutes the whole society. For dowry some greedy boys marries several times. It makes imbalance in sex ratio. The parents kill their girl child by feticide or infanticide.

V. Legal protection of women in India.

The maker of Indian constitution wanted to give women of India a better opportunity through the law. The founder of the Indian constitution keep in mind that the Indian women are actually not in good condition in every areas of society. To improve the status of the women in our preamble is ensure that justice, equality and liberty are achieved. Part iii of the constitution contains a long list of fundamental rights.

The state has enacted many women related legislation to protect women against social inequality and social evils like rape, dowry, child marriage, kidnapping and abduction, molestation, torture, both physical and Mental, sexual harassment etc. The Special marriage Act, 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956, Immoral Traffic (prevention) Act, 1956, The Maternity Benefit Act, 1961 (Amended in 1995), Dowry Prohibition Act, 1961, The Medical Termination of Pregnancy Act, 1971, Commission of Sati (Prevention) Act, 1987. The Criminal law (Amendment) Act 1983 has amended the Indian Penal Code and The Indian Evidence Act, 1872, the protection of women from Domestic Violence Act 2005 has been passed. The Working Women (Prevention of Sexual Harassment at the work place) Bill 2006 has been introduced in the parliament.

In Spite of all these protective legislations, Violence against women, in India continues to rise every year, which is a matter of concern. Within countless abuses against women the dowry abuse is rising in alarming speed in India. The giving and taking dowry prohibited under the Act it is still practiced by the Indian. The dowry and dowry death is no doubt touching almost all of the Indian culture, class, religion and widely to the society. The dowry death of a women in her matrimonial home is really a heinous crime. Despite all safeguards provided by the women in our country continue to suffer. There are several cases are not reported, everyday every police station of the state.

To eradicate the evil practice of dowry, many attempts are made in different states of India by enactments various legislations.

V.a. Section 304 – B of Indian Penal Code 1860 deals with dowry death.

When the death of a married woman is caused by any burns or bodily injury or under abnormal or suspicious circumstances within seven years of her marriage duration and it is clearly shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband or in laws for, or in connection with, any demand for dowry, such death shall be called

as "dowry death", and such husband or relative or in laws deemed to have caused her death. Whoever commits dowry death shall be punished with imprisonment for a term minimum of seven years which may extend to Imprisonment for life. The word dowry for the propose of sec 304-B carries same meaning of in section 2 of dowry prohibition Act 1961.

Ingredients of the section are:

- i) The death of women has been caused by burns or bodily injury or occurs otherwise than under normal circumstances;
- ii) That the death has been caused or has occurred within the seven years of her marriage; and
- iii) The soon before her death the women was subjected to cruelty or harassment by her husband or by relative of her husband in connection with any demand for dowry.

Section 304B of the Indian penal code (IPC) deals with "Dowry Deaths, which is 'cognizable, non- non-compoundable and to be tried in Courts of Session' and imposes a punishment of not less than 7 years but which may extend to imprisonment for life. The death has to be immediately preceded by cruelty and harassment due to dowry and has to be in abnormal circumstances within seven years of the marriage. In such circumstances the husband or the relative, as the case may be, will be deemed to have caused her death and will be liable for punishment. The deemed imposes a presumption of guilt – both intent and action.

However the prosecution under section 304B of IPC cannot escape from the burden of proof that the harassment to cruelty was related to the demand for dowry and such was caused "soon before her death". One of the main ingredients required to prove the fault of accused is to establish that she was harassed "soon before her death" for dowry. Is this the main factor for the increase in crime and for rendering this law meaningless? Amendment Act 1983 makes it mandatory for the police officer to send the body for post mortem examination in the death of the women occurred within the seven years of marriage as a result of suicide or under other suspicious circumstances.

According to the decision of Supreme Court *Prativa Rani Vs. Suraj Kumar* one may classify the dowry within the Act into four stages:-

1. The demand for dowry whether marriage takes place or not;
2. Agreement of both the parties to give and take dowry;
3. Giving and taking of Dowry;
4. Dowry to be benefit of the bride to be returned to her by the husband and his relations.

The above four stages have been closely attached with demand, giving and taking or failure to return the dowry but the valuables given after marriage could not be brought within the ambit of word dowry".

V.b. Section 498 - A Indian Penal Code, 1860 deals with husband or relative of husband of the subjecting her to cruelty.

Whoever being the husband or the relative of the husband or in law of a woman, Subjects such woman to cruelty or harassment or torture shall be punished With imprisonment for a term which may extend up to three years and shall to pay fine. The cruelty can be either mental or physical torture which drives the women.

Offences committed under section 304-B and section 498-A are non billable offence which makes difficult to the accused person to get bail and court remain very careful while granting bail in cases to dowry death. The object of the sections of Indian Penal Code to eradicate the dowry system completely cruelty is a common essential in offences under both the sections 304-B, and section 498-A of the Indian Penal Code both are distinct offences and a person acquitted under section 498-A of Indian Penal Code. The meaning of cruelty is given in explanation to section 498-A section does not contain its meaning but cruelty and harassment as

given in section 498-A applies in section 304-B as well. Under section 498-A of IPC cruelty itself amounts to an offence.

V.c. Section 176(1) of Criminal procedure code, 1973 provides inquiry by executive magistrate into cause of death, and Cr. P.C Sec 174(3)

Provides as follows.

When the case is of nature referred to the cl-1 or cl-2 of sub sec 30f sec 174 the nearest magistrate empowered to hold inquest. When

- (i) The case involves suicide by a Woman within seven years of her marriage,
- (ii) 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
- (iii) 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.

V.d. Section 113 – A of Indian Evidence, 1872 Act, 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 her husband and it is shown that she had Committed suicide within a period of seven years from the date of her manage 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.

V.e. IEA section 113 – B deals with presumption as to dowry death

When the question is whether a person had committed the dowry death of a women and it is shown that soon before her death such women 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 caused the dowry death.

When the court used the word shall presume means the court directed by this Act that the court is bound to presume that is irrefutable presumption.

when it shown that soon before her death the women had been subjected to cruelty and harassment by the accused for dowry the court shall presume that the accused had caused the dowry death and the burden is on the accused to rebut the presumption. The supreme court explain the term 'soon before' is a relative term which is required under specific circumstances of each case, andailable no straight-jacket formula can be laid down by fixing any time.

VI. CONCLUSION AND SUGGESTIONS:

Dowry system in India is one of the unsolved problems. In spite of the global campaign for elimination of violence against women, there has been alarming increase in the rate of dowry death cases. The phenomenon of dowry has spread not only to every part of the nation but also to all sects, caste and communities. The present society has become very materialistic and consumer driven. Marriage has become a profitable business which puts the bride on debit side and the bridegroom on the credit side. Dowry has become the way of betterment for those in the process of climbing up. The people need more money to develop their economic standard for changes in personal life style, living standard and social status. They want to grow rich overnight which often causes the violent attitude tendencies towards women resulting in an increase in crime rate against women over the year. Every day in India the women are murdered by their new husbands or by in-laws for failing

to bring sufficient dowry to the in-laws. In the name of dowry thousands of women are murdered, maimed disfigured or burnt alive.

To eradicate these social evils from the society, the following suggestions are taken into consideration:

- a) The parent should make strong determination to make their girl high educated by employing their money for this not for dowry.
- b) People must have overcome traditional religious taboos, social practices etc. Which have no value at all in this new era.
- c) People need to change a new way of thinking and their philosophy about the girl. A new type of attitude for required to the progress of women. All are equal; there should not be any discrimination between the men and women in society.
- d) Education is the basic factor to improve the conditions of all women in society .So it is the first and foremost duty of the Government to make policies for adequate arrangement to educate all the women of the society.
- e) Criminals victimizing women need deterrent punishment and are to be dealt with strictly because they not only violate law, but also violate the societal norms.
- f) Law is the basic tools to eradicate the social evil like dowry and dowry death. The legislations must make that type of law which is more in favors of the women so that they are enabled to raise their voice to claim their rights properly.
- g) To make women more confident and self dependent the Government must take steps towards generating jobs according to their qualifications, which make them free from family burden and no more dependent on other male members of the family.

It is very difficult to completely eradicate this type of social evil like dowry, which is totally in the blood and vein of the society , But through the instrumentality of law it is only method we can be suppressed some extent .The law, awareness and education can be decrease in the number of crimes rate . To bringing changes in the society the joint effort of the society must required.

Though there is remarkable effect of this movement of eradication of dowry system still the people not given it up totally. There are several legislations have been made to totally eradicate the system but there are many causes for which the system is still continuing. The main problem is the parties of the marriage they are deal secretly. Total eradication of the evil system is possible only when the mentality of the people changes. When someone is taking dowry he thinks that it is come under the preview my necessary and it is not a dowry, but when that same person is giving something that he named as dowry. This mental condition of the people is normally everywhere we find. The mentality must be change on giving and the taking of dowry. The every stages of the student should be made a course of its study on d must be read the evil effect of the dowry not only on the society, nation and the world at large.

Only the education and the awareness among the people of the society about the evil effects of the system can help remove the thousand year's bad practice of dowry system from our country permanently.

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