



Review Article

Dowry Death and Law – Indian Scenario

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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. Protection of young married women against harassment and cruelty on account of dowry is responsibility of government. 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 by educational cum awareness programs along with severe punishments to offenders will be helpful to deal with this social curse.

Key words

Dowry death, Law, Indian Scenario.

Introduction

Dowry and related offences 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 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 world free from it forever.

In majority cases of bride killing or bride burning or dowry death, problem is created by the female themselves against their own sex. It has been usually found that approach of mother in law is different from that of the bride's mother.

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Received on: 11-09-2014

Revised on: 20-09-2014

Accepted on: 25-09-2014

How to cite this article: Pragnesh Parmar. Dowry Death and Law – Indian Scenario. IAIM, 2014; 1(2): 44-49.

Available online at www.iaimjournal.com



Initially at the time of marriage, money is given by bride's family as per demand of the in laws but later on hunger of dowry is increasing extremely high which is followed by torture of bride 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.

Protection of young married women against harassment and cruelty on account of dowry is responsibility of government. Social organization and media may also effectively contribute by developing awareness regarding this issue and mobilizing the support of society against this terror. We all need to fight together to end this social crime forever to bring new happy horizon in 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.

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 duration and it is clearly shown that soon before her death she was subjected to cruelty or harassment or torture 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 law shall be 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. [1]

IPC Section 498 - 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 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 also liable to pay fine. The cruelty can be either mental or physical torture which drives the women



to commit suicide or to cause serious injury, or danger to life or health. [2]

CrPC Section 176(1) provides inquest by executive magistrate and CrPC section 174(3) provides as follows

When (1) 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. [3]

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. [4]

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. [5]

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 labelled 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.

Social factors and dowry death

Dowry is a social sin, which is common amongst upper and middle classes of Hindu community of India, and is the key factor for unnatural deaths in newly married females since years. Besides dowry, illiteracy, arranged or love marriages, child marriages, joint family structure, oedipal supremacy of mother in law, joblessness and monetary dependence of husbands on their parents, near complete dependence of women on their husband and / or in laws, drunkenness, cruelty and disloyalty of the husbands and want of social safety among Hindu women are other contributory factors affecting the marital happiness in one or other ways. [6]

Dowry occupies only one end of the shore of social exploitation sea; within the same field are cruelty, penalty, and molestation, physical or mental torture etc. After marriage, girl is push into an unknown world and is trapped into network of insecurities and thus she is totally on the kindness of the husband and/ or his family members who might or might not look after her.

Effective steps to be taken

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. There is no disagreement that there is an ever increasing crime against women at the hands of their husbands and / or in laws. 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.

A re-evaluation of Dowry Prohibition Act, 1961 should be done again as the law has actually failed to control the crimes against women or in effect failed to produce the vital results. Moreover, the Dowry Prohibition Act, 1961 being a special act, usually police do not take steps or take much attention in it, more particularity because offences under the act are treated as cognizable offences for certain limited purposes. Severe punishment is to be given to those who take dowry and harsh laws be framed for dowry related harassment and dowry deaths. Strict laws should also be enacted to disallow remarriages for such men whose wives have been burnt alive and / or the men who have been caught up in dowry deaths till the release of final judgement. Besides, a special task force of police should be constituted exclusively for this purpose, and speedy police investigations should be done. A continuous monitoring is also a must for all registered dowry death cases both at district and high court level so that justice should be delivered at the earliest. [7, 8, 9]



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 or showing a delaying policy then either the superior officers are approached or voluntary organisations 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 criticised 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. [7]

Every life ends one day but unnatural end particularly due to dowry leaves a bad example of good society. [10] More deterrent sentences or proof of guilt from the prosecution to the accused will not be effective unless the public is made aware of the wicked consequences of dowry and are assured protection in case when they come forward to fight against it. Neighbors can be of great help in prosecution of such crime by giving truthful evidence about general treatment given to the bride before her death.

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.

Acknowledgement

Authors acknowledge the immense help received from the scholars whose articles are cited and included in references of this manuscript. The authors are also grateful to authors / editors /publishers of all those articles, journals and books from where the literature for this article has been reviewed and discussed.

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Source of support: Nil

Conflict of interest: None declared.