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LawPublicus The Legal Portal

Dowry – An **Everlasting Phase**

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Dowry – An Everlasting Phase

By: Ashi Dixit

ABSTRACT

Any youngster, who shares a condition to marriage, ruins his schooling and his country and disrespects womanhood. - MAHATMA GANDHI

The Dowry system is one of the systems whose roots are so deep inside the whole of India. Dowry is the system where there is the transfer of property, clothes, automobiles, money, jewellery, furniture etc. It is like saying that these things are given in favour of giving their daughter to another man to take care of. It is accepted that all the property's owners are men and therefore this settlement is the other way if somehow man's property is lost so with this the girl can be safe.

Through this paper of mine I would like to highlight the condition of those who gives a dowry or who still believes in this dowry system even in this modern world. The of one observe when we will go in the wedding that a the father of the bride is giving some money or some property to the groom and even after the Dowry prohibition Act 1961 what is the condition in today's world.

Through this paper we will see that because of the dowry system there are deaths. As a few places in India we will see that this system it still prevalent and in the some areas The women's are even a committing suicide by the mental pressure or the the assault given by the in laws on the women.

INTRODUCTION

RESEARCH QUESTION-

1. Briefly explaining what is dowry System and history of dowry system.
2. How this provision leads to domestic violence against women.
3. Suggesting on how the situation of dowry can be eradicated from India.

HYPOTHESIS

We had an act on dowry in 1961 but still it is continuing in today's century as well. If we do not change mentality on the same then will it continue in the future and It will never come to an end?

OBJECTIVE

The objective of the research is to bring under the notice of the citizens that though the dowry system has been abolished by the law, it is still going on in our society and even in the 21st century we are disrespecting women's dignity by following this system.

SCOPE

If we take the Indian scenario we will find that the dowry system is still prevailing. In 1961 the statute was passed on the **prohibition of dowry system** which punishes the family who take dowry and there are criminal laws in IPC on dowry death. The merciless truth of the endowment framework isn't the account of rustic territories as it were. Indeed, even the informed family sitting in metropolitan urban communities like Delhi and Bangalore is harassing a lady for not bringing sufficient gold or money. Not over 16 days of the year 2020 had passed, Bengaluru, the silicon valley of India, announced 17 instances of misuse and demise of ladies for settlement as referenced in The New Indian Express¹. Going by this 2020 could be the most awfully horrific for the predicament of ladies as the endowment framework.

¹Preeja Prasad , 17dowry cases in 16 days of New Year ,The N.I. Express , May 15, 2021,at 1.

CONCEPT OF DOWRY

In India, it has its foundations in bygone eras when a blessing in real money or kind was given to a lady of the hour by her family to keep up her autonomy after marriage. During the provincial time frame, it turned into the solitary legitimate approach to get hitched, with the British making the act of settlement compulsory. The pattern in present India, with its roaring economy, is currently promising ever-higher lady of the hour costs among every single financial layer. However, the rising lady of the hour cost has carried with it an extension in savagery against ladies.

Shared viciousness is generally executed by the spouse or the parents in law in a bid to extricate a higher settlement from the lady's family. The settlement cost paid at the hour of marriage might be huge, however the covetousness of spouses and parents in law can develop after marriage. This as often as possible converts into physical, mental or sexual savagery against the lady. The savagery goes from slicing genitalia or bosoms with razors to consuming her alive by pouring lamp oil on her. Now and again, ladies are headed to self-destruction.

In spite of the fact that looking for a settlement has been banned in India since 1961, the boycott has been a test to authorize. An alteration to the law in 1986 ordered that any demise or brutality inside the initial seven years of marriage would be attempted as identified with settlement². Actually most instances of endowment viciousness go unreported.

The quantity of cases recorded under the Dowry Prohibition Act saw an ascent from 690 of every 2018 to 739 out of 2019. The number had remained at 727 of every 2017. The quantity of endowment passes saw a leap from 48 of every 2018 to 52 out of 2019, with none detailed so far in 2020. In spite of the fact that 2017, 2018 and 2019 saw a normal of multiple cases a day, the current year's normal for the initial 16 days has been a touch over one case each day. Police call attention to the fact that the idea of cases has gotten really upsetting and genuine, regularly including assaults on ladies who are defrauded by the financial hazard.

²Rukmini S, Dowry: What the data says and what it doesn't, The Hindu, May 20th, 2021, at 1.

RELEVANT LEGAL PROVISIONS

In India for dowry we have Dowry Prohibition Act 1961 and IPC 1860, Evidence act and women protection act.

Dowry Prohibition Act, 1961

The Dowry Prohibition Act, 1961 combined the counter endowment laws which had been passed in certain states. This enactment accommodates a punishment in area 3 if any individual gives, takes or abets giving or getting of share. The discipline could be detainment for least 5 years and a fine more than ₹15,000 or the worth of the share got, whichever is higher. Dowry in the Act is characterized as any property or important security given or consented to be given regarding the marriage. The punishment for giving or taking settlement isn't relevant if there should be an occurrence of presents which are given at the hour of wedding with no interest having been made.

The Act gives the punishment straightforwardly or in a roundabout way requesting settlement and accommodates a punishment including a jail term of at the very least a half year and extendable as long as two years alongside a fine of ₹10,000. Share arrangements are void stomach muscle initio and if any settlement is gotten by anybody other than the lady, it ought to be moved to the woman. The weight of demonstrating that an offense was not dedicated is on the people charged and not on the person in question or her family. Under its forces to outline rules for completing its goals under the Act, the public authority of India has outlined the Maintenance of Lists of Presents to the Bride and the Bridegroom Rules, 1985. There are likewise a few state level alterations to the Dowry Prohibition Act.

The Indian criminal laws were exhaustively changed to incorporate share as a culpable offence. Section 304B⁴ was accessorial to the IPC, 1860 (Indian Penal Code), which was created endowment passing a selected offense censurable with a base sentence of detainment for a really while and a most extreme detainment forever. It gave that if the demise of a woman is brought about by consumes or substantial injury or happens in dubious conditions inside 7

³ The dowry prohibition act 1961, Indian Kanoon (May 20th, 2021, 10:43 AM), <https://indiankanoon.org/doc/1763444/#:~:text=for%20demanding%20dowry.>

⁴ The Indian Penal Code, 1860, No. 45, Act of Parliament, 2021 (India).

years of her marriage, and there's proof to show that before her passing, she was exposed to mercilessness or provocation by her significant other or his relative in regards to the interest for share, at that point the spouse or the relative will be considered to have caused her death.

Further, area 113B of the Evidence Act, 1872⁵ ("Evidence Act"), makes an extra assumption of settlement demise when it is shown that before her passing, the lady had been exposed to mercilessness because of endowment demand. Section 304B IPC⁶ alongside Section 113B⁷ of the Evidence Act have empowered the conviction of numerous who were not gotten by the Dowry Prohibition Act, 1961. Section 113A of the Evidence Act gives a comparable assumption of abetment of self-destruction (which is an offense under Section 306 IPC), in the event of death of a wedded lady inside a time of seven years of her marriage.

Moreover, the legal executive additionally incorporates a homicide allegation under Section 302 IPC as this permits courts to force capital punishment on culprits of the offense. Area 406 IPC, relating to offenses for the criminal penetration of trust, applies in instances of recuperation of share as it should be to help the lady and her beneficiaries.

Further, Section 498A⁸ IPC was explicitly remembered for 1983 to shield ladies from cold-bloodedness and badgering. The lawfulness of Section 498A was tested under the steady gaze of the Supreme Court of India on grounds of misuse, on grounds that it gave subjective capacity to the police and the court. Nonetheless, it was maintained in *Sushil Kumar Sharma v. Association of India* (2005)⁹. The CrPC 1973¹⁰ gives that to the indictment of offenses under Section 498A IPC, the courts can take insight just when it gets a report of current realities from the police or upon a protest being made by the person in question or her family.

⁵ The Indian Evidence Act, 1872, No. 1, Act of Parliament, 2021 (India).

⁶ The Indian Penal Code, 1860, No. 45, Act of Parliament, 2021 (India).

⁷ The Indian Evidence Act, 1872, No. 1, Act of Parliament, 2021 (India).

⁸ The Indian Penal Code, 1860, No. 45, Act of Parliament, 2021 (India).

⁹ *Sushil Kumar Sharma v. Association of India* (2005) 6 SCC 281.

¹⁰ The Code of Criminal Procedure, 1973, No. 2, Act of Parliament, 2020 (India).

Security of Women from Domestic Violence Act, 2005¹¹

The Protection of Women from Domestic Violence Act, 2005 ("Domestic Violence Act") was passed to give a common law solution for the security of ladies from aggressive behavior at home in India. The Domestic Violence Act envelops all types of physical, verbal, enthusiastic, financial and sexual maltreatment and structures a subset of the counter share laws to the degree it is one reason for homegrown violence. Section 3 of the Domestic Violence Act explicitly consolidates all types of badgering, injury and damages exacted to force a lady to satisfy an unlawful need for dowry. Some of the regular cures under the Domestic Violence Act include: insurance orders – forbidding an individual from submitting abusive behaviour at home; home requests – seizing such individual from a common family; authority orders – giving care of a youngster and remuneration orders – coordinating instalment of pay

RELEVANT CASE LAWS

Gurridatta Singh vs State of Rajasthan¹²

FACT-Following one year of the marriage, the litigant and his mom Chand Kaur (Co-denounced who had passed on during the pendency of the preliminary) disclosed to Veerpal Kaur's folks and siblings that the gold given at the hour of marriage was not adequate. At this, ten tolas of gold was given. At the point when the principal child was brought into the world to Veerpal Kaur, there was an interest of fifteen thousand rupees; however at the intercession of the Panchas, a measure of twelve thousand rupees was given as a settlement. That child kicked the bucket. Whereafter two additional children were brought into the world to petitioner yet in spite of interest, nothing was given from the maternal side. Respondent and his mother are said to have abused petitioner due to the endowment not being satisfactory.

¹¹ Nyaaya, Protection of women from domestic violence act ,2005, Thebreakthrough(May.24,2021,11:30PM),<https://inbreakthrough.org/protection-women-domestic-violence-act-2005/>.

¹² Gurudatta Singh vs State of Rajasthan 1992 CriLJ 309, 1991 (1) WLN 44, 1991 (2) WLN 242.

HELD- There isn't anything to propose any fight between the life partners. Without material to get back the blame against the charged, we don't feel slanted to hold that the argument against the litigant is set up. Thus, the allure of Gurditta Singh is permitted. He is in prison .

Bansi Lal vs State of Haryana¹³

FACT-A FIR was stopped by Shyam Lal, father of Sarla (perished) in 1991 making claims that the appealing party, his mom, sibling and sister-in-law had reliably badgering his little girl Sarla (expired) by making settlement requests for example a bike. She had been abused by them. Following one year of marriage, Sarla (expired) came and remained with her family for around 14 months. It was solely after gathering a panchayat of direct relations, she had gotten back to her marital home. Again they abused and demanded for the interest of a bike, in this manner, she had been exposed to brutality, badgering by request of share to the degree that she ended it all in 1991, at her wedding home. After examination of the case, the arraignment documented the charge sheet against the litigant and his mom and charges were outlined against them.

Held- The only requirement is that death of a woman has been caused by means apart from any natural circumstances; that death has been caused or occurred within 7 years of her marriage; and such woman had been subjected to cruelty or harassment by her husband or any relative of her husband in regard to any demand of dowry. It are written by Sarla (deceased) had been taken by appellant as his defence while making his statement under section 313 Cr.P.C¹⁴. Therefore, the onus was on him to work out his defence by leading sufficient evidence to rebut the presumption that he had caused the dowry death. The appellant miserably didn't discharge that onus.

ANALYSIS

In spite of having legal provision on dowry in India , dowry is still prevalent and the position of women's families is still getting worse. No one is following the Indian legislature's rule which is made on the dowry as it's prohibition act as till today we see that most of the cases

¹³ Bansi Lal vs State of Haryana AIR 1991 SC 1142.

¹⁴ The Code of Criminal Procedure, 1973, No. 2, Act of Parliament, 2020 (India).

in the court are for dowry only. As if we will see in television also like there was an interview in which the girl itself said on the national television that her marriage was a broken because her father was unable to administer dowry to the family of the groom. and there are some more cases in which the bright bright family still feels that day should give dowry to the groom family because it's necessary mandatory things and if we will see in the marriages the dowry is there either in the form of utensils jewellery clothes or in the form of the money in the form of car in the form of anything but dowry is still there and no one cares about that it is in legal in India according to our law and because of these down these woman faces many things like harassment, dowry death and many thing.

CONCLUSION

India prides on itself to be having such great laws which guarantees the dignity of single person in India but what about the women's dignity because of the dowry system the dignity of the woman is continuously getting hurt either in the form of harassment or in the style of dowry death and it is increasing day by day even after so many years of passing of this act. I would really like to conclude that it's not possible to even think that dowry can be vanished from our country in future years as well. Though the media is playing a vital role in changing the mentality of the people regarding this system, if we will see today it seems of no use as the cases are still rising.

SUGGESTION

I would like to suggest that not only the government but also the people that they all is they should also get a way and they should also change the mentality that the oldster of the bride that they have to give dowry either they are rich or they are poor and I would love to council to the rich people as well that way even though they are gifting their grooms out of affection but that results to one of the concept of dowry as well and that affects the lower class people who cannot afford to give dowry so the people should also change the mentality as well as the government should keep in eye as in our country it is very impossible to keep in check for each and every couple within the 7 year of the marriage but it's the duty of the the government to make more strict laws and to make people to make scheme of campaigns for the more awareness of rules related to dowry so that They will also get a where to those rules and they can even go to the nearby police station for help.

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