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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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“A detailed study on dowry deaths in India”

Authored By- Reeth B Sirnadgouda

Abstract

Dowry Death is one of the most hideous or gruesome and burning issues in India. There have been Laws and Acts that have been enacted and incorporated by the legal system of the country; also there have been campaigns and awareness programs initiated by the Governmental and Non-Governmental Organisations against the Dowry Deaths and Dowry System in India, but in spite the presence of such initiatives the statistics on dowry-related deaths have only increased in the country. Despite the rapid increase of the middle-class society and youth population, steps towards modernization, enormous privileged economic development, better education system and etc., there are still certain grey areas where the country is still lacking the growth and one of such issues is the prevalent Dowry System and related Deaths, which continues to rise with time. There is the Dowry Prohibition Act, 1961 which is enacted, and in addition the laws have been made more stringent namely, Section 304 B (dowry death) and Section 498 A (cruelty by husband or his relatives) have been integrated into the Indian Penal Code (I.P.C.) and also Section 113 B (presumption as to dowry death) have been made part of the Indian Evidence Act (I.E.A.) in order to eradicate or at least lower down this heinous act of dowry system and related deaths. This research paper has made an effort to scrutinize and evaluate legal provisions which have been adapted and adopted by the Indian Legal System to minimize nuisance of Dowry Deaths, highlight loopholes and along-with its betterment in the legal system & the society and also to spotlight the available remedies as also how to further augment such remedies so as to be beneficial to the genuinely aggrieved party.

Keywords: - Dowry Death; Dowry Prohibition Act, 1961; Dowry System; Government; Section 113-B of I.E.A.; Section 302-B of I.P.C.; Section 498-A of I.P.C.

Introduction

The risk of the Dowry framework has turned into a genuine and unscrupulous social shame in Modern India despite the fact that the general public and the populace guarantee themselves to be educated and instructed. This is prompting constraint, severity and physical and close to home brutality towards ladies, further, it additionally makes genuine monetary and profound pressure on the in-laws and relatives, clashes in the marriage and in the spouse's home. We have such a general public where it is a wrongdoing to request Dowry either during the marriage or even after the marriage, in any case, this ghastly issue of the Dowry System actually exists in our general public. Beginning of Dowry: The importance of endowment.

The endowment is the instalment in real money or in-kind by the lady of the hour's family to the husband's loved ones. Here and there it is whenever given to the spouse just of the pride in Indian marriage. The expression for the settlement is called "kanyadaan", it is very essential part of the Hindu marital rites. Dowry is gotten from the antiquated Hindu traditions of "kanyadaan" and "stridhan". In "Kanyadaan" the father of the lady offers the dad of the husband to be Gold, property, cash and so on. Though for "Sridhan" the lady of the hour herself gets gifts and decorations at the hour of her marriage regularly from her family members.

Locally, the endowment is called *dahej* in Hindi, *jehaz* in Urdu and Arabic, *joutuk* in Bengali, *jiashuang* in Mandarin, *çeyiz* in Turkish, *dab* in French, "daijo" in Nepali and in different pieces of Origins. In Pakistan, the share is called *Jahez* in Arabic (got from Islamic *jahez-e-fatimi*) Pakistan's Muslim people group thinks about settlement as a mandatory Islamic practice. They refer to the sunnah of the Prophet to legitimize the act of giving settlement as well getting dower (Mahr) The installment of share in Sri Lanka has areas of strength for a, and has been associated with family Violence. In Odisha 'jautuka' is the installment in real money or kind by the lady's family to spouse's family alongside the offering of the lady of the hour called *kanyadana*. Share is determined from 'varadakhina', the parents give to the bridegroom as gift.

Gandhiji pointing at the wrongs innate in the Indian social framework said "It is great to swim in the water of custom yet to soak in them is self-destruction." Dowry demise is a disgrace on our general public. The poor never resort to it; rich don't require it clearly on the grounds that it is

fundamentally a financial complex. "The affection for cash is the base, everything being equal" Gandhiji favored young ladies to stay unmarried for their entire lives however not embarrassed and disrespected by wedding men who requested share".

It is hard to say with sureness when and how the settlement framework started however some accept that it began in Rome as a wedding gift to a little girl's loved ones. The first custom in Bangladesh was the lady of the hour cost, called pawn, where the lucky man's family makes an instalment to the lady's folks. This has continuously been supplanted by the settlement, this change in customs started during the 1960s, and by the mid-21st hundred years; the lady cost has been replaced by the endowment. Girls didn't ordinarily acquire a single thing from their dad's bequest. Rather with marriage, they got a share from their folks. The aim was to propose however much lifetime security to the lady that the guardians could bear.

Prior to going into a definite investigation of the shared framework, talking about the idea and reason for the endowment system is fundamental. In India settlement is an indistinguishable piece of the marriage. As per Brahada Narayank Upanishad, marriage was considered a ceremony, a blessed association of bone with bone and soul with soul to go on even in the following world. According to legends like Ramayan, the spouse was thought of as half of the assemblage of husband "Ardhangini" and " Dharmapatni" a companion and right counselor to be related with the husband in every single strict custom and functions. Again Gandhi said "the spouse isn't the husband's slave however his friend and his assistance mate and equivalent accomplice in all delight and distresses as free as the husband to pick her own way". "Manu said that once a man and lady are joined in marriage they should that there are no distinctions among them and they stay dedicated to one another.

To be mother's ladies were made and to be fathers men. The Veda that dharma should be polished by men along with their spouses in the marriage; the custom of giving share articles by the lady of the hour's family to the groom's family every so often of the organized marriage is an antiquated custom of India. Around then the share was not in that frame of mind of endowment. It was given according to the financial limit of the lady of the hour's side as a badge of adoration. However, step by step it turned into an image of societal position.

Growth Of Dowry System In India

The Dowry System in India is connected with the Marriage Foundation. In any case, dissimilar to right now endowment was totally a deliberate gift in the antiquated opportunity to the girl and her better half which in the present situation has turned into a restrictive share. The antiquated text and writing portray and propose that wedding service was one of the significant customs and one of the fundamental functions in an individual's life, practically obligatory and restricting for every one of the Hindu men overall and all ladies specifically, however, there is no notice of Dowry System in those texts and writing. During the Vedic time frame, marriage was a heavenly bond which was honored by the Gods and Goddesses themselves and this sacred bond couldn't be broken by any kind of human activities. There were a few exceptionally fundamental and straightforward principles that individuals followed for the thought of the marriage however there is still no notice of Dowry. Writers of writing committed towards the composing worried about share framework development in India show that in the past the Daughters were not having any freedoms of legacy and were denied this right, just the children had the right of legacy and in the long run, just the children acquired their dad's property. In this situation, the guardians of the girl during the hour of her marriage out of sheer love and friendship used to gift a piece of their cash and gems to her, which evidently have begun and set off the Dowry System in the country. As per the investigation given by Veena Talwar Oldenburg in her book, it is referenced that the documentation left by the British Bureaucrats during the British Colonial rule of India and as indicated by the individual comments from ladies of India, remembering the creator's comments for share framework, it very well may be surmised that the hypothesis of settlement was straightforwardly answerable for the situation with the ladies in the public arena and referenced that the endowment framework really intended to benefit the wedded lady, which during the British period changed over into a framework and arrived up hurting the very lady who really should profit from that. Dowry Death can be characterized as an unnatural passing of the spouse because of interest for settlement by the spouse or potentially his loved ones. Share can incorporate anything from cash to resources like adornments, versatile and unfaltering property and so forth. Ladies are either killed by the spouse or on the other hand his family, in the event that their interest, covetousness and desire for settlement are not satisfied or the lady ends it all since she was unable to confront the provocations any more longer over the satisfaction of the share. It is likewise one more method for beginning or

pushing the spouse's profession or to satisfy the family's requests to the creating social materialistic prerequisites. It is a plain insatiability of the spouse and his family to request share if not this offensive practice would have halted long back. With spending years' cases connected with settlement passing's in India are progressively expanding. Additionally, instances of brutality towards the spouse by a husband or his family members are expanding which is conspicuously brought about by the interest for settlement and the spouse's powerlessness to satisfy it. As per the measurements given in the NCRB Report, 2016, the complete number of revealed cases connected with Dowry Deaths in the year 2016 was 7,621 and an absolute number of announced cases connected with remorselessness by the spouse or his family members to the wife in the year 2016 were 1,10,378. India holds the largest number of Dowry Death cases in the World. One more obvious problem that surfaces with the regulations set down to shield ladies from this brutal act is the abuse of exactly the same regulations by the spouse or her family to bug and extortion the husband or his family, which is additionally required to have been managed in a quick way.

Legal Services Available To The Victims

With the increasing number of dowry death cases in India, the Government has laid some guidelines to deal with such cases and the laws have also been amended for strengthening the legal system to protect and support the victims who come under the cases of dowry deaths or cruelty. We have The Indian Penal Code (I.P.C.), The Indian Evidence Act (I.E.A.), Criminal Procedure Code (Cr.P.C.) and The Dowry Prohibition Act (D.P.A.), to protect the women from being subjected to Dowry Deaths or Cruelty arising out of disputes related to dowry.

Indian Penal Code

Section 304 – B of the I.P.C. deals with Dowry Death. That further says:

(1) 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.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Ingredients of Section 304 – B of I.P.C. are as follows:

1. When the death of the woman is caused under abnormal and suspicious circumstances caused by burns or any other bodily injuries.
2. Within 7 years of the marriage.
3. The death is caused in relation to the demand for dowry.
4. The expression “Soon before her death”.

It is a Cognizable, Non-Bailable, Non – Compoundable offence. In the case of *Satvir Singh and others, v. State of Punjab and another* apex court held that the harassment or cruelty to which the woman is subjected should not be at some time with the demand to dowry rather it should be “soon before her death”.

Further, in the case of *Raja Lal Singh v. the State of Jharkhand*, it was said by the apex court that the term “soon before her death” that is given in Section 304 – B of the I.P.C. is a very flexible expression, it can be interpreted as instantly before her death or within a reasonable time before her death. The thing that is significant over here is that there should be an appreciable connection between the death of the woman and the harassment she faced related to dowry demand. If the wife dies within 7 years of the marriage and if there is no demand for dowry and there was no ill-treatment as well from the side of the husband and his family, then the husband and his family cannot be held liable and charged under section 304 – B of the I.P.C., held by the Hon’ble Supreme Court in the case of *Meka Ramaswamy v. Dasari Mohan and others*, However, it was held in the case of *Bhagwan Das v. Kartar Singh and others* that if the woman is killed or commits suicide in relation to demand of dowry and it happens soon before her death then Section 304 – B of the I.P.C. may be invoked. In *Prahallad Budek v. the State of Orissa*, it was held that there should be a live link between the death of the woman and the harassment and cruelty faced by her in relation to the demand of dowry, and if there is no such link then the offence of Section 304 – B of I.P.C. cannot be established against the husband or husband’s relatives. Also, it was the same that was

stated in the case of *BaldevSinghv.StateofPunjab* plus it was also said that the time gap should not be much between the cruelty and harassment and the death of the woman. *StateofRajasthanv.JagguRaheld* that, as there is no specification of the time period for the expression “soon before her death” in any of the statutes or acts, it is directed that as the facts and circumstances of each case may differ so on the basis of that it is required by the court to decide that if the time period between the death of the woman and the cruelty she suffered is immediate or not.

Section 498 – A of the I.P.C. deals with the Husband or relative of the husband of a woman subjecting her to cruelty. That further says:

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to a fine.

The Dowry Prohibition Act, 1961

The whole of the Dowry Prohibition Act, of 1961 is prepared, equipped and developed in order to provide relief to the victims of the dowry cases in the country. The entire act solely fulfils the purpose to protect woman’s suffering from dowry harassment and cruelty.

It contains a total of 10 sections of which the following are the heading of each section:

- 1) Section 1 – Short title, extent and commencement
- 2) Section 2 – Definition of “dowry”
- 3) Section 3 – Penalty for giving or taking dowry
5. Section 4 – Penalty for demanding dowry
6. Section 4A – Ban on advertisement
7. Section 5 – Agreement for giving or taking dowry to be void
8. Section 6 – Dowry to be for the benefit of the wife or her heirs
9. Section 7 – Cognizance of offence
10. Section 8 – Offences to be cognizable for certain purposes and to be non-bailable and non-compoundable

11. Section 8A – Burden of proof in certain cases
12. Section 8B – Dowry Prohibition Officers
13. Section 9 – Power to make rules
14. Section 10 – Power of State Government to make rules

As it can be seen that this Act is drafted, keeping in mind the interest of all areas of society and law in order to protect and enhance the status of dowry victims which may be leading them to death, suicide, harassment or cruelty. It is understood that the word “Dowry” is a social evil, but as it can be seen in section 6 of the D.P. Act which says “Dowry to be for the benefit of the wife or her heirs”, here we should understand that Dowry is simply a sum of property (whether it is money or any other property) given by her parents or her parents’ family out of sheer love and affection to protect the social and financial interest of a woman and which is not a social evil. In fact, social evil is the “demand” of dowry by the husband or his family, faced by the wife and her family.



Conclusion

It can now be derived that the Government of India related to the direction of the Judicial Body of the nation have been sensibly fruitful in setting down most sensible, co-usable, steady arrangements and regulations to safeguard the interest, life and pride of ladies and give equity to casualty's sufferings from provocation, brutality and share passings. Still specific severe remedial measures should be embraced to kill or if nothing else check this famous issue of endowment interest from our nation however above all, it requires public will and obligation to avoid away from this social and materialistic abhorrent avarice for settlement.

As it is expressed "at whatever point there is light, there is shadow as well", comparably, to give equity to ladies and to shield them from settlement provocation to their greatest advantage, there have been instances of abuse of the regulations and arrangements gave to help and safeguard them. These arrangements and privileges have been taken advantage of in an off-base way and that too it has occurred for a sensible timeframe now. This is one of the provisos that is required to have been revised and amended by a similar noble, scholered and scholarly officials who have set out these arrangements remembering the assurance of ladies from the grievous wrongdoing of endowment.

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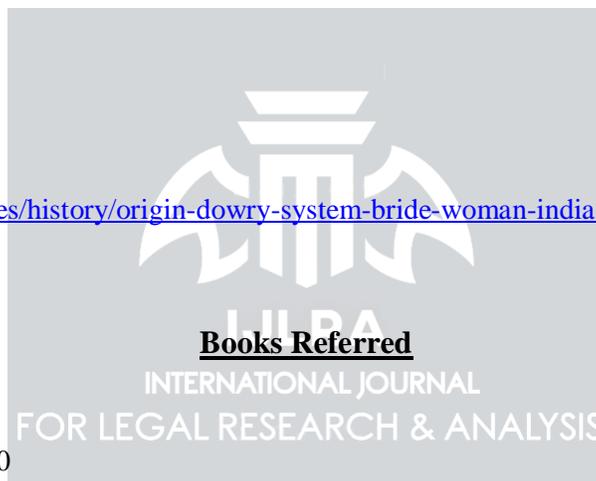
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