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**THE JURISPRUDENCE AND SOCIOLOGY OF DOWRY
VIOLENCE IN INDIA: A COMPREHENSIVE ANALYSIS OF
LEGAL TRANSITIONS AND SOCIETAL REALITIES**

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ABSTRACT

The phenomenon of dowry and the subsequent violence it engenders within the matrimonial home represents one of the most persistent and deeply entrenched socio-legal crises in India¹ and the broader South Asian subcontinent. Despite over six decades of dedicated legislative prohibition, dowry-related extortion, cruelty, and fatalities continue to claim thousands of lives annually², reflecting a profound friction between statutory mandates and complex socio-cultural realities. This exhaustive report presents a multidimensional analysis of dowry violence, tracing its sociological roots from the distortion of traditional protective customs to the contemporary commodification of marriage. It critically examines the overarching substantive, procedural, and evidentiary legal frameworks designed to combat this menace, with a specific focus on the historic transition from the colonial-era Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act (IEA) to the newly codified Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) implemented across the Indian legal system. By synthesizing demographic data from the National Crime Records Bureau (NCRB), the National Commission for Women (NCW), and United Nations global femicide reports, alongside landmark and contemporary 2025–2026 Supreme Court judgments, this analysis elucidates the evolving legal

¹ Dowry Death, Wikipedia, https://en.wikipedia.org/wiki/Dowry_death

² Dowry Cases Rise by 14% in 2023; Over 6100 Women Killed, The Hindu.

mechanics deployed to eradicate domestic terror.³The report further explores the evidentiary complexities of prosecuting domestic crimes, the revolutionary impact of mandatory forensic videography under the BNSS, and the delicate judicial balancing act required to protect victims while preventing the misuse of anti-dowry laws through omnibus allegations.

Introduction:

The Evolution of a Chronic Social Evil

Marriage, fundamentally recognized as a foundational social institution, is traditionally viewed as a sacred alliance designed to establish a lifelong partnership between individuals and their respective families⁴. However, within the socio-cultural matrix of the Indian subcontinent, this institution is frequently marred by the extortionate practice of dowry. Historically, the concept of dowry originated from the ancient Hindu practice of providing *Stridhana*—voluntary gifts of property, money, or valuables given to the bride by her family at the time of her wedding. In an ancient patriarchal society where women lacked formal property and inheritance rights, *Stridhana* belonged exclusively to the woman and was intended to ensure her financial security and independence within her new marital household.

Over centuries, however, this voluntary custom metastasized into a coercive and obligatory transactional demand⁵. Influenced by shifting socio-economic conditions, the rigid stratification of the caste system, and the economic inequalities exacerbated during the colonial era, the practice was entirely corrupted. What was once a protective financial buffer for the bride transformed into a rigid precondition for marriage, actively demanded by the groom and his family. The increasing commercialization of marriage alliances transformed grooms into commodities, where their value in the matrimonial market was dictated by their education, professional status, and earning potential, directly driving up the corresponding dowry demands placed upon the bride's family.

Today, when the bride's family fails to satisfy these continuous and often escalating demands, the bride is subjected to a spectrum of abuse⁶. This abuse ranges from severe psychological torment and financial deprivation to brutal physical battery. In the most egregious instances,

³ UN Women, *Femicides in 2024: Global Estimates of Intimate Partner/Family Member Femicides*.

⁴ *Dowry-Related Violence Towards Women – Some Issues*, Tata Institute of Social Sciences.

⁵ *Dowry Deaths in India: The Unfinished Battle Against a Social Evil*, White Code Legal.

⁶ *Dowry Deaths in India: Long Investigations, Rare Convictions*, Next IAS

this continuous harassment culminates in "dowry death"—cases where young women are either driven to suicide by an unbearable domestic environment or are intentionally murdered, frequently by burning, hanging, or poisoning, to clear the path for the husband to remarry and extract a fresh dowry.

The Indian state has attempted to curb this violence through a combination of special legislation, such as the Dowry Prohibition Act of 1961⁷, and stringent, continuous amendments to the penal codes. The constitutional framework of India, which is dominantly egalitarian, mandates the equality of sexes under Article 14 and explicitly empowers the state to make affirmative provisions for women under Article 15(3). Furthermore, Article 21 guarantees the right to life and personal liberty, which the Supreme Court has expansively interpreted to include the right to live with human dignity—a right fundamentally violated by the systemic extortion and violence of the dowry system. Despite these robust constitutional guarantees and positive legal interventions, the crime remains endemic. The persistence of dowry deaths highlights a profound disconnect between legislative intent and societal compliance, necessitating a comprehensive analysis of the sociological drivers of dowry, the statistical reality of its prevalence, and the evolving legal mechanics deployed to eradicate it.

Sociological Underpinnings of Dowry Violence

To comprehend the unrelenting nature of dowry demands and the violence they precipitate, it is essential to look beyond the immediate financial transactions and examine the systemic devaluation of women in traditional family structures⁸. Legal mechanisms alone are insufficient to explain why dowry persists despite severe penal consequences; the answers lie in deeply rooted sociological paradigms.

The "Zero-Political Status" and Worth-Deficiency Theories

Sociological research challenges the conventional legal narrative that dowry deaths are strictly the result of unsatisfied financial greed or a mere mismatch between the gifts demanded by the in-laws and the presents actually received. Comprehensive surveys of dowry fatalities, notably the foundational sociological studies conducted by scholars such as Nalini Singh, suggest that these deaths are the ultimate manifestation of a society that views women as fundamentally less

⁷ *The Dowry Prohibition Act in Indian Courts: Evaluating the Effectiveness*, INSPIRA Journal.

⁸ *The Social Construction of Dowry Deaths*, National Institutes of Health (PMC).

productive and less valuable than men. This systemic subjugation results in what is termed the "Zero-Political Status" of women within their new affine families⁹.

Because societal worth is distributed unequally between the sexes from birth, females suffer from a perceived and culturally enforced "worth-deficiency". The institution of dowry functions as a material additive explicitly designed to offset this inherent gender-based deficiency.

Consequently, dowry extortion is not a solitary transactional dispute; it is a continuous¹⁰ affirmation of patriarchal dominance. The bride is expected to seamlessly slip into the very bottom of the family's authority structure, surrendering her autonomy to demonstrate her subservience.

The roots of this devaluation are so pervasive that even financially independent brides who out-earn their husbands are subjected to the exact same extortionate pressures. Earning women face identical demands to provide dowry goods and services long after their marriage, proving that dowry violence is fundamentally rooted in gender subjugation rather than pure economic necessity. The in-laws establish a permanent conduit for financial extortion strictly through the bride, operating on the perception that her parents owe them unlimited compensation for accepting her.¹¹

When a young woman—traditionally expected to be a "political amputee" within the household—offers sustained resistance to these demands, she disrupts the authoritarian family power structure. This defiance is highly provocative to the flag-bearers of patriarchal authority. In these tragic cases, the retaliatory wrath of the in-laws expresses itself through brutal murders, frequently executed by burning the young women with kerosene or by forced poisoning. Thus, the term "dowry death" is often viewed sociologically as a misnomer; the violence occurs not merely over missing property, but as part of a larger, systemic mandate to oppress a human being assigned a zero-political status.¹²

⁹ *Access to Justice for Women in India: Progress, Pitfalls, and the Road Ahead*, SCC Online

¹⁰ Dowry Has Eroded Mehr's Protection in Muslim Law, Legal Eagle

¹¹ Dowry Death, INT'L J. L. MGMT. & HUMANITIES

¹² The Burning Cauldron of Section 498A: A Double-Edged Sword in Indian Law.

Cultural Assimilation and the Hollowed Concept of Mehr

While dowry is often analyzed exclusively through the lens of Hindu socio-legal traditions, judicial scrutiny has increasingly recognized its pervasive infiltration into other religious communities, demonstrating its nature as a regional cultural contagion rather than a strictly religious mandate. In a landmark judgment delivered on December 16, 2025 (*State of UP v. Ajmal Beg*), the Supreme Court of India addressed the tragic dowry death of Nasrin, a 20-year-old Muslim woman who was burnt alive by her husband and mother-in-law over unfulfilled demands for a colored television, a motorcycle, and ₹15,000.¹³

The Supreme Court utilized this case to explicitly reject the notion that dowry is confined to Hindu society. The Court noted that in strict Islamic jurisprudence, the exaction of dowry from the bride's family is prohibited. Instead, the faith mandates *mehr*—an essential bridal gift from the groom to the bride, which forms an indispensable component of the *nikah* (marriage contract). Citing Surah An-Nisa (4:4) of the Quran, the Court emphasized that *mehr* must be given "graciously" and belongs solely to the woman, functioning to ensure her dignity and independent financial security within the marriage.

However, the Court observed that the extortionate practice of dowry has deeply entered Muslim marriages in the Indian subcontinent through cultural assimilation, social emulation, and inter-community influence.¹⁴ Driven by the broader societal practice of "hypergamy"—the desire to marry into families of a 'higher' socio-economic status—families engage in highly competitive and ruinous gift-giving. Over time, this has resulted in a paradoxical reality where *mehr* is fixed only in nominal or symbolic terms, while massive, real financial transfers flow inversely from the bride's family to the groom. The Supreme Court powerfully noted that this cultural corruption effectively "hollows out" the protective function of *mehr*. The dowry often ends up under the absolute control of the husband or his family, leaving women economically vulnerable, particularly in cases of divorce or widowhood, and equally susceptible to dowry-related domestic violence and murder across sectarian lines.

¹³ Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India)

¹⁴ Dowry Has Eroded Mehr's Protection in Muslim Law, Legal Eagle.

The Statistical Landscape of Matrimonial Violence

Despite sweeping legal frameworks, constitutional guarantees, and continuous judicial interventions, empirical data reveals a grim and persistent reality regarding the safety of women in domestic spheres. Analyzing the statistics provided by federal agencies provides a stark quantification of the crisis.

National Crime Records Bureau (NCRB) Data and Geographic Concentrations

The National Crime Records Bureau's "Crime in India 2023" report, released in late 2025, underscores a deeply troubling upward trajectory in matrimonial extortion and related crimes. While general awareness campaigns have proliferated, the actual incidence of registered dowry crimes continues to rise, reflecting both an absolute increase in offenses and potentially a greater willingness among victims to approach law enforcement¹⁵.

Legal Category	2021 Data	2022 Data	2023 Data
Cases under Dowry Prohibition Act	13,568	13,479	15,489
Total Dowry Deaths (Sec. 304B IPC/80 BNS)	-	6,450	6,156
Murders Explicitly Motivated by Dowry	-	-	833
Total Arrests under Dowry Prohibition Act	-	-	27,154

Table 1: NCRB Data on Dowry-Related Crimes (2021-2023)¹⁶

The data indicates a 14% increase in cases registered strictly under the Dowry Prohibition Act between 2022 and 2023. While the absolute number of dowry deaths saw a marginal reduction from 6,450 in 2022 to 6,156 in 2023, the sheer volume remains alarming, equating to an average of nearly 17 brides killed every single day¹⁷.

¹⁵ Recording of Search and Seizure Through Audio-Video Means Under §105 BNSS, LiveLaw.

¹⁶ Reinforce Constitutional Position on Marriage; Appoint Dowry Prohibition Officers, SCC Online.

¹⁷ Supreme Court Sets Aside Bail in Dowry Death Case Under BNS §80, SupremeToday.

Geographically, the burden of dowry violence is heavily concentrated in Northern and Eastern India, regions historically characterized by deeply entrenched patriarchal structures, lower female literacy rates, and highly skewed sex ratios¹⁸.

State	2022 Dowry Deaths	2023 Dowry Deaths
Uttar Pradesh	2,218	2,122
Bihar	1,057	1,143
Madhya Pradesh	518	Data Pending

Table 2: High-Burden States for Dowry Deaths

Uttar Pradesh consistently leads the nation by a massive margin, recording 2,122 dowry deaths in 2023. Together with West Bengal, Odisha, Jharkhand, Madhya Pradesh, Rajasthan, and Haryana, these states account for approximately 80% of all dowry deaths nationwide. Among major metropolitan areas, Delhi alone accounts for nearly 30% of all dowry death cases among India's 19 major cities, debunking the myth that dowry violence is strictly a rural phenomenon driven by a lack of education.

National Commission for Women (NCW) and Real-Time Complaint Trajectories

The crisis trajectory has not abated in the most recent years. Data from the National Commission for Women (NCW) for the 2025–2026 period indicates that domestic hostility remains the primary threat to women's safety. In the previous reporting year, the NCW received over 27,000 complaints, with domestic violence and dowry harassment alone accounting for over 39% (10,846) of the total volume.

In just the first quarter of 2025, the NCW received 7,698 official complaints. Domestic violence topped the list, but specific dowry harassment followed closely with 916 specialized complaints. Uttar Pradesh again accounted for the highest number of complaints, logging 3,921 cases in this single quarter, further highlighting the localized intensity of the crisis and the pressing need for rapid institutional intervention.

Underreporting and the Global Femicide Context

Criminologists and data scientists consistently warn that official NCRB and NCW statistics

¹⁸ Supreme Court Sets Aside Bail in Dowry Death Case Under BNS §80, SupremeToday.

represent a highly conservative estimate of the crisis. Due to the deep social stigma associated with broken marriages, the immense pressure placed on victims to reconcile, and the intimidation tactics employed by perpetrators, dowry violence is severely underreported. Evidence suggests that thousands of dowry deaths are routinely misreported or registered by corrupt or apathetic local police as "accidental kitchen fires" or "natural suicides," thereby artificially lowering the true mortality rate.

This domestic tragedy must be situated within broader global statistics on gender-based violence. The UN Women's 2024–2025 global estimates reveal that approximately 50,000 women and girls were killed by intimate partners or family members globally in 2024. This equates to 60 percent of all female homicides worldwide, averaging 137 femicides daily, or one every 10 minutes.

India alone accounts for a highly disproportionate share of these figures, with female dowry deaths constituting an estimated 40 to 50 percent of all female homicides recorded annually within the country.

The Substantive Legal Framework: Subjugation and Cruelty

Recognizing that general criminal laws pertaining to assault, battery, and extortion were fundamentally inadequate to police the private, hidden sphere of the matrimonial home, the Indian legislature has continuously evolved its statutory protections. The historic enactment of the Bharatiya Nyaya Sanhita (BNS), 2023, which officially repealed the colonial-era 1860 Indian Penal Code (IPC) in 2024, marks a monumental reorganization of these protections, though the core substantive philosophies designed in the 1980s remain rigorously intact.

The Dowry Prohibition Act, 1961: Efficacy and the Giver's Dilemma

The primary special legislation governing the transaction of dowry is the Dowry Prohibition Act, 1961 (DPA). Section 3 of the DPA penalizes the giving, taking, or abetting the exchange of dowry with rigorous imprisonment for a term which shall not be less than five years, and a fine which shall not be less than ₹15,000 or the amount of the value of such dowry, whichever is more. Section 4 independently penalizes the mere *demand* for dowry, recognizing that the initiation of extortion is a culpable criminal offense regardless of whether the property ultimately changes hands.

To enforce these provisions, the state relies on Dowry Prohibition Officers (DPOs), who are tasked with preventing dowry practices, gathering evidence, and assisting victims. However, the efficacy of DPOs has been widely criticized across states like Uttar Pradesh and Bihar; their impact is frequently diluted by a lack of statutory powers, inadequate infrastructural funding, and poor integration with mainstream law enforcement agencies, leading to continuous calls from the NCW for their comprehensive capacity-building.

Furthermore, the DPA presents a profound legal and sociological dilemma by explicitly penalizing both the *taker* and the *giver* of dowry. While this statutory parity aims to eradicate the system universally and discourage the commercialization of marriage, it has the unintended and highly chilling practical effect of discouraging the bride's parents from reporting extortion. Because the parents of the bride are often coerced into giving dowry out of a desperate need to ensure their daughter's physical safety, holding them equally legally culpable means there is essentially no one left to complain against the extortionate act without fear of self-incrimination.

Cruelty: From Section 498A (IPC) to Sections 85 and 86 (BNS)

Introduced via the Criminal Law (Second Amendment) Act in 1983, Section 498A of the IPC was a watershed provision that criminalized domestic cruelty, classifying it as a cognizable and non-bailable offense. Under the new BNS regime, the legislature adopted a more systematic drafting approach, bifurcating this massive statutory block to improve clarity without diluting the penal severity.

Section 85 of the BNS now serves as the operative penal provision. It explicitly mandates that 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 fine. The procedural classification remains identical; it empowers the police to make immediate arrests without a warrant to protect the victim from ongoing domestic terror.

Section 86 of the BNS serves exclusively as the definitional anchor. It rigorously retains the historic "two-limbed" definition of cruelty to ensure that both physical violence and calculated psychological torment are penalized. Cruelty is legally defined as:

Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide

or to cause grave injury or danger to life, limb, or health (whether mental or physical) of the woman.

Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security, or is on account of failure by her or any person related to her to meet such demand.

Expanding the Definition of Mental Cruelty: Reproductive Coercion and Stridhana

The broad statutory language of Section 86 BNS (and its predecessor 498A IPC) has allowed the Indian judiciary to actively expand the parameters of what constitutes punishable cruelty, moving beyond mere physical battery to address the psychological destruction of the victim. A prime example is the illegal misappropriation of the bride's exclusive property, or *Stridhana*. The supreme importance of a woman's right to her property was underscored by the Supreme Court in *K. Prema S. Rao v. Yadla Srinivasa Rao*. In this case, the husband systematically pressurized and harassed the deceased to part with agricultural land she received from her father. The Court ruled that intentionally depriving a woman of her rightful property, combined with isolating her from her family, constitutes a severe form of mental cruelty capable of driving a woman to suicide.

More recently, High Court jurisprudence has expanded mental cruelty to encompass reproductive coercion and the denial of bodily autonomy. In a highly significant January 2026 judgment

(*Sanya Bhasin v. State of NCT of Delhi*), the Delhi High Court quashed criminal summons issued against a woman who had terminated a 14-week pregnancy amidst severe marital discord. The estranged husband had filed a complaint accusing her of illegal termination without his consent under IPC 312. However, Justice Neena Bansal Krishna ruled that forcing a woman to continue an unwanted pregnancy, particularly within an abusive or strained marriage, violates her bodily integrity and significantly exacerbates mental trauma. The Court established a vital precedent that reproductive choices are a core facet of personal liberty under Article 21, and that a husband's attempt to force a pregnancy or criminalize an abortion constitutes an oppressive act. This modern interpretation aligns with the protections against

mental harm codified in BNS Section 86, demonstrating the law's adaptability to evolving understandings of domestic abuse.

The Critique of Section 86 BNS: The Omission of Economic Cruelty

While the judiciary has stepped in to interpret the law broadly, academic critiques of the BNS highlight missed legislative opportunities during the 2023–2024 transition. Despite decades of data showing that domestic abuse often begins with financial strangulation, Section 86 of the BNS strictly copy-pasted the 1983 definition of cruelty. It failed to explicitly define "economic abuse"—such as denying the wife access to her own salary, deliberately withholding funds for basic healthcare, or cutting off household utilities—as a standalone penal offense. Under the current penal framework, victims must still rely on the civil remedies provided by the Protection of Women from Domestic Violence Act, 2005 (PWDVA) to address economic abuse, as the criminal code continues to prioritize physical and extreme mental torture over financial subjugation.

The Jurisprudence of Dowry Death: From Section 304B IPC to Section 80 BNS

Dowry death represents the most severe and aggravated form of matrimonial violence. Recognizing the near impossibility of securing independent eyewitnesses to a murder meticulously executed within the hostile confines of the in-laws' residence, the legislature created a distinct and highly specialized penal offense. Formerly governed by Section 304B of the IPC, the offense is now strictly prosecuted under **Section 80 of the BNS**.

To secure a conviction under Section 80 of the BNS, the prosecution must establish four essential, interconnected ingredients beyond a reasonable doubt:

Unnatural Demise: The death of the woman was caused by burns, bodily injury, or occurred otherwise than under normal circumstances.

Temporal Proximity: The death occurred strictly within **seven years** of her marriage.

Factum of Cruelty: The woman was subjected to cruelty or harassment by her husband or his relatives.

The Nexus: Such cruelty or harassment was specifically for, or in connection with, any demand for dowry, and this cruelty occurred "**soon before her death**".

If these parameters are met, the law creates a powerful legal fiction: the death "shall be called

dowry death, and such husband or relative shall be deemed to have caused her death". The punitive severity remains uncompromising, mandating a minimum sentence of seven years' imprisonment, which may extend to imprisonment for life.

It is crucial to note that dowry death and standard murder are distinct legal categories. Section 80 BNS (Dowry Death) relies on statutory presumptions and does not always require direct evidence of the physical act of killing. However, if the prosecution's evidence explicitly demonstrates that the accused willfully put human life in peril—for instance, by pouring kerosene and lighting the match—the charge elevates from the presumptive dowry death to direct, first-degree Murder under Section 103 of the BNS (formerly Section 302 IPC), which can carry the death penalty in the rarest of rare cases.

The "Seven-Year" Limitation Debate

A heavily litigated and intensely critiqued perimeter of Section 80 BNS is the retention of the strict seven-year temporal threshold. The legislative rationale is rooted in the sociological understanding that the initial years of marriage are the most vulnerable for a bride as she attempts to integrate into a new family structure; after seven years, the law presumes that the matrimonial ties have stabilized.

However, feminist legal scholars and social workers argue that this rigid temporal boundary is arbitrary and fails to reflect evolving sociological realities. The extortion of dowry does not magically cease on a couple's seventh anniversary. Demands frequently persist for decades, often resurfacing and escalating during property inheritance disputes, the birth of children, or when the husband seeks funds for a new business venture. If a woman is tortured and murdered for dowry in the eighth year of her marriage, the specialized protections of Section 80 completely collapse. The prosecution is legally barred from invoking the concept of "dowry death" and must instead rely on general murder (Section 103 BNS) or abetment (Section 108 BNS) charges, thereby losing the benefit of the specialized statutory presumptions that shift the burden of proof to the accused.

5.2 Abetment of Suicide: Section 108 BNS

In scenarios where relentless cruelty pushes a woman to take her own life, but the strict parameters of a "dowry death" are not entirely met—for example, the seven-year window has expired, or the cruelty was completely unrelated to property demands—perpetrators are

prosecuted for the Abetment of Suicide. Previously housed under Section 306 of the IPC, this offense is now governed by **Section 108 of the BNS**, carrying a severe penalty of up to ten years imprisonment.

To secure a conviction for abetment, the judiciary insists on establishing a "proximate nexus." As the Supreme Court elaborated in *Ramesh Kumar v. State of Chhattisgarh*, instigation requires a reasonable certainty to incite the consequence. A solitary, isolated instance of domestic discord or an exchange of harsh words in the heat of the moment does not automatically amount to instigation. The cruelty inflicted must be willful, systematic, and calculated to destroy the victim's psychological equilibrium, actively driving the woman to end her life.

The Evidentiary Paradigm: Presumptions and the Burden of Proof

The substantive penal laws designed to combat dowry violence would be rendered practically unenforceable without profound modifications to the traditional rules of evidence. Standard criminal jurisprudence places the immutable burden of proving guilt "beyond a reasonable doubt" solely on the shoulders of the prosecution. However, because dowry deaths and severe matrimonial cruelty occur behind closed doors, independent eyewitness testimony is virtually non-existent.

To prevent perpetrators from hiding behind this evidentiary void, the Indian legislature introduced specialized statutory presumptions. These presumptions fundamentally alter the legal landscape by violently shifting the burden of proof onto the accused once certain foundational facts are established by the prosecution. The transition from the colonial-era Indian Evidence Act, 1872 (IEA) to the newly enacted Bharatiya Sakshya Adhiniyam, 2023 (BSA) meticulously preserves these critical evidentiary shifts, ensuring that the vast reservoir of Supreme Court jurisprudence remains entirely applicable.

The Discretionary Presumption: Section 117 BSA (Abetment of Suicide)

Section 117 of the BSA, which entirely absorbs the former Section 113A of the IEA, deals specifically with the presumption as to the abetment of suicide by a married woman. The statute stipulates that if a woman commits suicide within a period of seven years from the date of her marriage, and it is shown that her husband or his relatives subjected her to cruelty, the Court

"**may presume**", having regard to all the other circumstances of the case, that such suicide had been abetted by them.¹⁹

The phrase "may presume" is an absolutely vital jurisprudential nuance. It vests the trial court with significant judicial discretion. Even if the prosecution successfully proves the suicide and the preceding cruelty, the court is not legally compelled to automatically infer guilt. The defense can successfully rebut this presumption on the lower standard of a "preponderance of probabilities". As established by the Supreme Court in *State of West Bengal v. Orilal Jaiswal*, if the defense can demonstrate that the deceased was inherently hypersensitive and overreacted to the ordinary "wear and tear" of married life, or suffered from severe, pre-existing clinical depression entirely unconnected to the husband's conduct, the court may refuse to draw the presumption of abetment. The law requires the court to assess the cruelty from the standpoint of a reasonable woman placed in the specific socio-economic circumstances of the deceased.

The Mandatory Presumption: Section 118 BSA (Dowry Death)

In stark contrast to the discretionary nature of Section 117, **Section 118 of the BSA** (replacing the former Section 113B of the IEA) serves as the unyielding evidentiary backbone for prosecuting dowry deaths. This section mandates that when it is shown that soon before her unnatural death a woman was subjected to cruelty for, or in connection with, any demand for dowry, the Court "**shall presume**" that the accused caused the dowry death.

This is a mandatory presumption of law. Once the prosecution discharges its initial burden, the court is stripped of its discretion and is legally bound to draw the adverse inference. To escape conviction, the accused faces the formidable task of definitively disproving one of the foundational facts—either by proving through forensic evidence that the death was entirely natural, or proving that no dowry demand was ever made.

The Supreme Court strictly enforces this provision to prevent lower courts from showing unwarranted leniency to abusers. In a blistering judgment delivered on February 17, 2026 (*Chetram Verma v. State of U.P.*), the Supreme Court set aside a bail order granted by the Allahabad High Court to a husband accused of the dowry death of his 22-year-old wife, Sushma. The victim had been found dead due to asphyxia by manual strangulation in the middle

¹⁹ Indian Evidence Act, sec 113A and sec 117 of the BSA.

of the night at her matrimonial home, merely three months after a wedding where her family had provided substantial cash and gifts.

The Allahabad High Court had granted bail based on the accused's clean prior record and the time he had already spent in jail. However, a Supreme Court bench comprising Justices J.B. Pardiwala and K.V. Viswanathan labeled the High Court's decision a "travesty of justice". The Supreme Court explicitly cited Section 118 of the BSA, emphasizing that the lower court had mechanically granted bail while completely ignoring the mandatory statutory presumption of guilt that arises when a bride is murdered within months of her marriage amidst allegations of dowry harassment. By ordering the immediate surrender of the accused to judicial custody, the Supreme Court reaffirmed the formidable, unyielding power of Section 118 BSA in the new legal era.

The Proximity Test: "Soon Before Her Death"

A heavily litigated component of both Section 80 BNS and Section 118 BSA is the statutory expression that the cruelty must have occurred "soon before her death". The legislature deliberately refrained from defining a strict chronological timeframe for this expression (e.g., stating it must be within 30 or 60 days).

Instead, the judiciary relies on the "proximity test". As elucidated in landmark precedents like *Kans Raj v. State of Punjab* and *Kaliyaperumal v. State of Tamil Nadu*, there must be the existence of a perceptible, proximate, and live link between the effect of cruelty based on dowry demands and the resulting death. If the alleged incidents of extortionate cruelty are remote in time, and the record shows that the woman had recovered her mental equilibrium during an intervening period of domestic peace, the proximity test fails. The charge of dowry death will collapse, though the prosecution may still pursue charges of historical cruelty under Section 85 BNS.

The Disappearance of Evidence: Destruction of the Corpus Delicti

A critical, yet often under-analyzed, component of matrimonial criminal jurisprudence is the conduct of the perpetrators immediately following the unnatural demise of the bride. Because dowry murders and coerced suicides are executed within the absolute privacy of the matrimonial home, the perpetrators—usually the husband and his relatives—have complete

physical control over the crime scene before authorities are alerted.

Aware that forensic evidence—such as ligature marks from strangulation, defensive wounds from physical battery, burn patterns indicating the use of accelerants, or toxicological traces of poison in the viscera—will inevitably expose their guilt, abusive in-laws frequently resort to the calculated destruction of the victim's body. This desperate attempt to evade justice by wiping out the evidentiary matrix is an independent and severe criminal act.

Section 238 BNS: Penalizing the Obstruction of Justice

Previously governed by Section 201 of the IPC, the offense of causing the disappearance of evidence of an offense, or giving false information to screen the offender, is now codified under **Section 238 of the Bharatiya Nyaya Sanhita (BNS)**. The punitive severity under Section 238 is directly proportional to the gravity of the principal offense whose evidence was destroyed. Because dowry death (Section 80 BNS) and murder (Section 103 BNS) carry sentences up to life imprisonment or death, the act of actively destroying the evidence carries a rigorous penalty extending up to seven years of imprisonment and a fine.

Secret Cremations and Unnatural Human Conduct

In the specific context of bride burning, the most prevalent and notorious method of causing the disappearance of evidence is the hasty, clandestine, and unholy cremation of the deceased's body. The human body is the primary repository of forensic truth. By incinerating the remains before the police can conduct a formal inquest (mandated under Section 194 BNSS, formerly Section 174 CrPC) or a medical officer can perform a post-mortem, the perpetrators effectively destroy critical medical data.

The Indian judiciary views such hasty cremations with extreme suspicion, utilizing them to solidify the presumption of guilt. In the landmark judgment of *Shanti v. State of Haryana*, the Supreme Court noted that the in-laws hurriedly cremated a young bride without sending any information whatsoever to her parents. The Court fiercely ruled that if the death had been a natural occurrence or a genuine accident, there would be no logical need for the accused to act in such a highly unnatural manner.

Similarly, in *Ram Badan Sharma v. State of Bihar*, the victim was poisoned, denied any medical

treatment, and her body was secretly cremated in the dead of night to wipe out the evidence. The Supreme Court definitively held that this unnatural human conduct strongly proved a concerted conspiracy to commit murder, justifying convictions for both dowry death and the disappearance of evidence.

Furthermore, the law explicitly dictates that the absence of a body does not prevent a murder conviction. If perpetrators completely destroy the *corpus delicti* (e.g., by scattering ashes or dissolving remains), the prosecution can rely on the "last seen theory". Under Section 109 of the BSA (formerly Section 106 IEA), if the prosecution proves the bride was last seen alive within the exclusive custody of her husband, the burden shifts heavily to him. If he fails to offer a verifiable explanation for her disappearance, the absolute destruction of the body operates as highly incriminating circumstantial evidence of a premeditated dowry death.

Procedural Revolution: Mandatory Videography Under the BNSS

While the transition to the BNS and BSA largely involved the re-codification and structural bifurcation of existing laws, the transition from the Code of Criminal Procedure (CrPC) to the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023** introduces radical procedural upgrades. These upgrades directly target the investigative failures, evidence tampering, and police corruption that have historically plagued dowry death prosecutions.

The Digital Forensic Mandate: Sections 105 and 185 BNSS

A historic loophole heavily exploited by defense counsels in dowry death trials was the allegation that the police manipulated crime scenes, forged recovery memos, or planted crucial evidence (such as suicide notes, matchboxes, or kerosene canisters). To definitively combat this, **Sections 105 (Search without Warrant) and 185 (Search with Warrant) of the BNSS** fundamentally revolutionize the collection of evidence by introducing mandatory digital transparency.

The BNSS explicitly mandates that every physical search of a place, every instance where property or articles are seized, and the preparation of the seizure list (signed by independent witnesses) must be recorded using audio-video electronic means, preferably a cell phone or body camera. Furthermore, to prevent post-facto tampering of the digital files, the BNSS dictates that this recording must be forwarded "without delay" to the District Magistrate, Sub-

Divisional Magistrate, or Judicial Magistrate of the First Class.

Impact on Trial Integrity and Conviction Rates

This technological integration effectively paralyzes the traditional defense strategies used to dismiss inquest reports and police recoveries. By ensuring absolute forensic integrity from the exact moment a crime scene is breached by law enforcement, the BNSS prevents perpetrators from successfully destroying residual evidence, while simultaneously preventing corrupt investigating officers from tampering with the scene to favor the accused.

The judiciary has adopted a stance of strict compliance regarding these new digital mandates. In a highly consequential January 2026 ruling, the Allahabad High Court granted bail to an accused explicitly because the police failed to videograph the recovery of evidence as mandated by Section 105 of the BNSS. Justice Arun Kumar Singh Deshwal held that the failure to utilize audio-video recording not only showed police negligence but also arbitrariness, creating a fatal legal doubt over the prosecution's entire recovery story.

This ruling sends a clear directive: the digital forensic mandate is not merely a suggestion, but a strict legal requisite for the admissibility of evidence. By compelling investigating agencies to utilize electronic documentation, the BNSS is theoretically projected to significantly boost the historically low conviction rates of dowry death cases by providing courts with irrefutable, visual proof of the crime scene and the instruments of torture. When the mandatory "shall presume" directive of Section 118 BSA is combined with concrete, videographed forensic evidence, the ability of abusive in-laws to successfully claim a "kitchen accident" is drastically minimized.

Judicial Scrutiny and the Mitigation of Legal Misuse

The formidable nature of India's anti-dowry laws—specifically their classification as cognizable, non-bailable, and non-compoundable offenses—creates a highly volatile legal environment.

While these severe laws provide an absolutely essential shield for genuine victims of domestic terror, their strict provisions have also been subject to profound allegations of misuse.

Disgruntled spouses or their families occasionally weaponize these penal provisions as retaliatory tools during civil divorce proceedings or property disputes, maliciously dragging entire extended families into the grueling machinery of criminal litigation.

Combating Omnibus Allegations

The Supreme Court of India has consistently expressed deep constitutional concern over the mechanical and indiscriminate implication of the husband's distant relatives in cruelty and dowry harassment cases. In a significant recent ruling delivered on March 9, 2026 (*Dr. Sushil Kumar*

Purbey & Anr. v. State of Bihar & Ors.), the Supreme Court quashed criminal proceedings initiated under Section 498A IPC (now BNS 85) and the Dowry Prohibition Act against the extended family members of a husband.

In this case, a wife had lodged an FIR accusing her husband, mother-in-law, and brother-in-law of severe dowry harassment, including demands for a BMW car. However, the Supreme Court, utilizing its inherent powers, quashed the FIR against the relatives, explicitly warning against the growing trend of "omnibus allegations". The Court clarified that vague, generalized accusations drafted without attributing specific acts, specific dates, or specific roles to individual family members cannot sustain criminal proceedings.

Justices Vikram Nath and Sandeep Mehta emphasized that criminal law must not be utilized as a tool for revenge or to exert pressure after the breakdown of a marriage. Indiscriminate prosecutions that entangle elderly parents and distant relatives based on copied, exaggerated, and family-wide claims severely damage the pursuit of real justice and erode public faith in protective legislations. This judgment reinforces the critical necessity for rigorous judicial scrutiny; trial courts and magistrates are legally obligated to meticulously sift through the initial evidence to differentiate between a genuinely oppressed victim and a maliciously motivated complainant.

The Role of Protection Officers and Civil Remedies

To alleviate the immense burden on the criminal justice system and prevent the misuse of severe penal laws like BNS Section 85, the state increasingly relies on the civil framework

provided by the **Protection of Women from Domestic Violence Act, 2005 (PWDVA)**. This progressive legislation defines domestic violence expansively to include physical, sexual, verbal, emotional, and economic abuse, explicitly covering dowry harassment. Crucially, the PWDVA provides immediate civil remedies—such as protection orders to stop ongoing violence, residence orders to prevent eviction from the shared household, and monetary compensation—without necessarily initiating immediate criminal incarceration. The successful execution of the PWDVA relies heavily on **Protection Officers**, who are mandated to be appointed by the State Government in every district under Section 8 of the Act. These officers act as critical frontline intermediaries for distressed women. Their statutory duties include assisting victims in filing Domestic Incident Reports (DIRs) with the local magistrate, ensuring the enforcement of court orders, providing access to free legal aid under the Legal Services Authorities Act, and coordinating with medical facilities and state-funded shelter homes.

By offering an immediate civil shield and institutional support, the PWDVA and its network of Protection Officers provide victims with a highly viable alternative to enduring silent abuse or immediately resorting to the harsh, irreversible, and frequently contested mechanisms of the Bharatiya Nyaya Sanhita.

Conclusion and Strategic Recommendations

The eradication of dowry violence in India represents a monumental challenge that exists at the complex, volatile intersection of deeply entrenched sociological biases and rigid legal frameworks. This exhaustive analysis reveals that dowry deaths and the severe matrimonial cruelty that precedes them are not anomalous incidents of domestic friction. Rather, they are the fatal culmination of continuous, systemic extortion driven by the patriarchal devaluation of women's "political status" within the family unit. When a woman is culturally perceived as a financial liability, the extortion of her family becomes normalized, and violence becomes the sanctioned tool for enforcing compliance.

The recent transition to the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) in 2023–2024 represents a massive administrative consolidation of Indian criminal law. Substantively, provisions like BNS Section 80 (Dowry Death) and BNS Sections 85 and 86 (Cruelty) meticulously retain the stringent, hard-won protections of the colonial-era codes. Furthermore, contemporary judicial

interpretations continue to progressively expand these definitions, as evidenced by 2026 High Court rulings that recognize reproductive coercion and the denial of bodily autonomy as severe forms of mental cruelty. Evidentiary mandates, specifically the mandatory "shall presume" directive under Section 118 of the BSA, continue to serve as the ultimate legal weapon against perpetrators who attempt to disguise murder as suicide behind the closed doors of the matrimonial home. The Supreme Court's fierce enforcement of this presumption, notably in canceling bail for abusive husbands, underscores its enduring power.

Most importantly, the procedural revolution initiated by the BNSS—specifically the mandatory digital videography of search and seizure operations under Section 105—promises a monumental leap in forensic integrity. By actively preventing the disappearance of evidence and the manipulation of crime scenes, this technological mandate has the potential to dramatically improve the historically low conviction rates of dowry death prosecutions.

However, the law alone is profoundly insufficient. The continued high rates of femicide, as highlighted by the 2023 NCRB statistics showing over 6,100 dowry deaths, and the 2025 NCW logs showing thousands of active harassment complaints, prove that legislative severity cannot single-handedly dismantle a culturally sanctioned practice. The persistent reliance on arbitrary statutory thresholds—such as the strict seven-year limitation for prosecuting dowry deaths—indicates that the legal framework still requires targeted legislative evolution to address the reality of long-term economic subjugation.

Ultimately, true mitigation of this chronic social evil requires a holistic societal awakening. It necessitates the strict enforcement of property rights for women to negate their perceived "worth- deficiency," the destigmatization of divorce to allow women to escape abuse safely, and robust infrastructural and financial support for Protection Officers operating under the Domestic Violence Act. Above all, it requires an absolute cultural refusal to engage in the commodification of marriage. Until a woman's inherent dignity and economic independence are universally recognized, the tragedy of dowry violence will continue to demand the most aggressive responses of the criminal justice system.

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