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DOWRY SYSTEM-: UNEQUALIZING GENDER EQUALITY

AUTHROED BY - ARUDITA DIMRI

ABSTRACT

Marriage is the sacred association, the holy union among man and women. The women are forever the better half of her husband and the relationship thrives in honesty, love, sacrifices and adjustments in both sides. The pure thing as Marriage comes with its evil side also namely Dowry. There are lot of families have lost their daughters in the name of dowry. The system is so deep rooted that if dowry is not adequately given at the time of marriage; many marriages are called off leaving the bride, her family devastated.

In India dowry system is being practice since long time and it has put a deep impact in the life of women dowry system also connect with the domestic violence as women faced physical and mental toucher by the groom family . It contains the poor effect of dowry system on gender equality and also show that financial burden face by the bride's family.

The practice of dowry system places the pressure on bride's family by fulfilling the expectations of groom families which show the economic inequality. The main objective of this study is to show economic perspective, social perspective and legal aspect of dowry system . There should be the issue of dowry system should be solve by legal measures, education to women and awareness camps. This research paper contain the evolution of the dowry system and it gets transform from cultural by the source of social and economic disparities dowry does not mean the exchange of gift and money during marriage. It also contains who dowry system have burden the financially and inequality face by women . In form of legal aspect there are many law's had been made to stop dowry and many camps has been conduct so people can get awareness. The states have ensured to curb this evil and have brought to us the Anti-Dowry laws in the form of S.498A I.P.C, The Dowry Prohibition Act, 1961.

This research paper tried to provide how dowry has been practice from historical time social economic, legal aspect dowry system contribution to gender inequality the study carry the overview on the dowry system in India the mental toucher and physical toucher women face for the dowry . Dowry system not only creates economic imbalance but also domestic violence faced by women in

groom family. The effects of the system are everywhere corroding efforts toward greater gender and economic equality.

Key words: marriage, dowry, gender equality, dowry prohibition

INTRODUCTION

Dowry system in India

Dowry, as per Sec. 2 of Dowry Prohibition Act, 1961 denotes all properties or valuable gifts or decided to be offered directly or indirectly by one individual to another person or by the parents of either part of individual before, in marriages.

As per the law, it is a crime to both receive or offer any type of dowry. Hence both the families of bride and groom will be accountable for take dowry or give dowry. This method predate the British era and colonization in India. The basic purpose of dowry was it performed as the forms of safeguard for the wife against the ill treatment by her partner and his family members.

For numerous age groups, India has struggled with the age old dowry system. In the tradition, the bride's family members are forced to offer valuable gifts, money, or properties to the groom's family so as ease the marriage. This extremely entrenched custom has confronted significant criticisms because of its adverse effect on community, prompt different campaigns and effort focused at eliminated it. In spite of these attempts, the dowry system remain an important problem, mainly in backward areas of India.¹

As per NCRB survey, 8240 incidences of dowry death were reported under section B of IPC and 106527 incidences of cruelties by spouse or relatives as per section 498 A of IPC. The Constitution of India assures safeguard to live the life of dignity and respect to every people, especially the marginalized people as per Article 15. Moreover, India has ratified International Convention such as CEDAW. Therefore, India made special provision for woman to identify this disparity. Laws like Section 113 B, 498A and 304B of IPC, Dowry Prohibition Act and Domestic Violence Act identify violence against woman. It is the situation that the institution of marriages and families are not insulated from state

¹ Chitwan Varma, Criminology and Socio-Cultural Aspect of the Anti-Dowry Law in India (2014)

intervention, especially where there is violence against woman within these institutions.

In India, every person speaks and progress for woman's privileges and says 'Beti Bachao Beti Padhao' but girls even after attaining the whole thing in her life; where begin considering of her family but even then she cannot run off the shackle of dowry. Occasionally due to dowry which are regularly common amongst the rural and backward people, they kill their daughters after they are born or before their birth in the mother's womb itself in order that they can get away dowry.² A number of laws have been ratified to forbid the practices of dowry, but the lawful clutches are weaker than the ambit of the practices of dowry system. In addition, this stud will enumerate the communal and legal impact of dowry with its other different aspects.³

The Concept of Gender Equality

Gender is a general expression whereas gender inequality is signifies only for woman, because they are victim of gender bias. It is an unkind fact that woman has been ill-treated in all communities for ages and India is no exemption⁴.

Genders are societal constructs that ascribe various accountabilities and rights to woman and man despite of personal capability or priorities. Genders and gender power is reflected at every level of community. Therefore, a woman is always exposing to a triple burden - they are accountable for domestic accountabilities, for societal care provisions, and also contribute in the labour forces.

It also denotes a society in wherein both woman and man enjoy the same chances, right and obligation in various phases of living. Equality in socio- economic liberty, equal accesses to learning and right to practices a job of one's

² DeeptimanTiwary, Anti-dowry law to be amended, will allow room for compromise, Times of India (2015)

³ Jain, Prakash Chand, A Legal Study of Dowry Cases in India, Social Science Journal for Advanced Research (2022)

⁴ Monica Chawla, Gender Justice- Women and Law in India, Deep and Deep Publications, 2016

preference. So as to encourage gender equality, it will necessary to woman empowerment, and focus on fields which are most vital to her wellbeing.

Gender equality is not related to woman only. Gender equality is not treating man and woman similarly as biological difference, sometimes need that man and woman be treated in a different way. Gender Equality is a division of Indian statutory pledge and it represent constitutional rights. Articles 14 confer equal right and chances to both man and woman in the political, socio-economic periods. Art-15, Art- 15 (3), Art.16, Art. 39 (a), Article39 (c) etc. also directed to evade any form of inequity in case of sex or any other societal backgrounds. When man and woman share equal of rights in socio-economic and legal dimension, then human wellbeing will be boosted.

The UN regards gender equality as human rights. Gender equality doesn't involve that woman and man are the same but they have equal values and must be treated consequently. The UN illustrates that empowering woman is a vital tool for attaining growth and decreasing poverty.

DOWRY PROHIBITION LAWS IN INDIA

Dowry prohibition laws are administered by the IPC, Indian Evidence Act and Dowry Prohibitions Act. In IPC, Section 304B and Section 498A connected to these concerns whereas Sections 113A and Sections 113B includes the procedural aspects and Sections 3, 4 and Sections 8 prohibit demanding of dowry.

Dowry Prohibition Act 1961

The law was highly condemned for being ineffectual in decreasing and controlling the practices of dowry. It demanding that an accurate list be kept that describe each present provided, its values, the individuality of the persons donating it, and the personal relationships to either party to the marriages. The goals of the law includes⁵:

⁵ Ramachandra , An Analysis of the Dowry System in India: Causes and Remedies, JETIR (2019)

- To endorse marital and family accord.
- To efficiently working for make dowry-free community.
- To offer foundation to battle against the abuses of dowry law.
- To make awareness related to dowry associated law and their harmful effect on the families.
- To offer legal-aid to the weak and backward sections of the society.
- To safeguard the wellbeing of child and the integrity of Indian family.
- To safeguard the interest of the elderly and their respect in community and to forbid elder abuses via dowry associated regulation.
- To set up deterrent against malicious complaint and warrantless arrest.

It bans the payments or acceptances of dowry as concerns for marriages. Demanding for or offering of dowry can be penalized by imprisonments of upto 6 months, fines upto Rs. 15,000 or imprisonment upto 5 years

SECTIONS OF INDIAN PENAL CODE, 1860

Section 498A was initiated in 1983 to safeguard married woman from being subjected to cruelties by their partner or relatives. The punishments extending to three years and fines have been detailed. The expression “cruelty” has been denoted in broad expression so as to include inflicting physical or mental hurt of women and including in acts of harassments with views to coerce her or her relation to meet any illegal demand for all properties or valuable security. Harassments for dowry fall within the sweep of latter limb of this section. Making the situation driving the women to do suicide is the key ingredient of “cruelty”.

Sec 498-A: Husband or relatives of husband of women subjecting her to cruelties - Whoever, being the husband or the relatives of the husband of the women, subject such women to cruelty will be penalized with imprisonment for

the term which might widen to 3 years and will be accountable of fine.⁶ Explanations -

For the purpose of the section, “cruelty” denotes:

- (i) all willful conducts which are of such the nature as is likely to drive the women to do suicide or to reason grave injuries or danger to life, limbs or health (mental or physical) of the women; or
- (ii) abuse of the women where such harassments are with the view to coercing her or any individual associated to her to meet any unlawful demand for any properties or valuable security or is on account of failure by her or any persons associated to her to meet such demands.

Section 304B identifies the seriousness of dowry death and impose strict penalty on those found guilty. The accused confronts 7 years in prison or life in jail if convicted. In this situation, the accused persons bear the trouble of proving that the death wasn’t reasoned by cruelties or dowry harassments.⁷

In Arnesh Kumar vs. State of Bihar⁸ case the petitioners approached the Court for allow anticipatory bail. S. 498A was performed with declared objects to fighting the hazard of harassments to women by her partner and his family. The Court pointed out that it is the reality that S.498A is an identifiable and nonbailable crime has lent it a uncertain place of arrogance among the provisions that are utilized as weapons by disgruntled wife, the easy method to annoy is to get her partner and his family members arrested under these provisions.

Section 113B in The Indian Evidence Act, 1872

Section 113B of this act pointed out that the Presumptions as to Dowry Death. If women die relating any demands for dowry and it was shown that soon before her death she was subjected to harassments or cruelty by every individual. Then the Supreme court would suppose such persons accountable for her death. Section 114B manages the principle of presumptions associated to the

⁶ Rebecca Furtado, Dowry Death and Cruelty in Indian Law: Suggested Reforms, June 22, 2016

⁷ Jaswal and Nishtha, Anti-Dowry Legislation In India, Journal of the Indian Law Institute. 79-82 (2020)

⁸ (2014) 8 SCC 273

abetments of suicide to married woman in the reason of dowry.

But a slight dissimilarity among Section 113A and 114B is that the presumptions of S.114B only came to the depiction if the prosecutions has some proof that the reason of death was cruelty or harassments for dowry claim. Therefore, as per Section 114B, the presumptions are conducted only when the prosecution establishes the case.

In *Mustafa Shahadal Shaikh vs. State of Maharashtra*⁹, the ratio decidendi of the court pointed out that the languages employed in Section 304B, “soon before death” doesn’t explain any exact time bound as such under both the IPC as well as in S. 113-B of Indian Evidence Act. It will entail that the intervals shouldn’t be much among the cruelty or harassments considered and the death in question.

In *Rajesh Sharma v State Of Up*¹⁰ case manages with the section 498A of IPC which are dowry harassments. Rajesh and Sneha got married in 2012 with the realization of dowry from bride side but the appellants weren’t contented with the dowry which has been offered and so after marriage the plaintiff was harassed

.After for a while the complainant pregnancy was terminated which caused the appellants to left her wife at home .In this issue the case was filed by summoning Rajesh Sharma as per section IPC 498A. This case highlighted the demand for a balanced approaches towards the problem of dowry harassment. While it is vital to safeguard the right of woman, it is also significant to make sure that the laws are not misused to harass innocent persons.

In Judgement of *Pooja Saxena vs State*¹¹ According to Section 3 of the Dowry Prohibition Act, offering to give dowry is the punishable crime, but the petitioners do have safeguard of Section 7(3). Section 7(3) offers that notwithstanding anything included in the law for the time being in force, the statements made by the person aggrieved by the crime as per this Act will not subject him to prosecution.

⁹ Criminal Appeal No. 1406 of 2008

¹⁰ (2017) 3 SCC 821

¹¹ WP (Criminal) No 501/2010

Baijnath vs. State of MP¹² case, the prosecution wasn't capable to establish beyond doubts that the death of the victims were dowry associated. The Court had held that simple death of the deceased, no subject how tragic it is, isn't sufficient to prove that death was the dowry death, therefore, neither enough to raise presumption as per S.113 B.

In Satbir Singh vs State of Haryana¹³ case, the Court held that the expression 'soon before' as utilized in Section 304B can't be implicit to signify 'exactly before', the judgment affirmed. The Court has ruled that so as to condemn somebody accused of reasoning dowry death, the prosecutions should presents evidences proving that the dowry demands was conveyed by act of harassments and cruelty.

Code of Criminal Procedures, 1973

Section 174 & 176 of CrPC manages the investigation related to the reasons of unnatural death by police officials and magistrate. The amendments make it mandatory for police officials to send the body for post mortem if the death of women happened within 7 years of marriage in subject of suicide or dowry related unnatural death.

The current legal provision related to gender equality in India

Indian constitution prepared provisions for woman concerning gender equality. The term gender equality in the Constitution is specified in its Preambles, Fundamental Right, Fundamental Duty and Directive Principle of State Policies. The Indian statutory not only assures woman empowerment but also motivates the States to accept different steps of equality and empowerment favouring woman." As per Indian statutory system, Articles 14, Articles 15, Article 15 (3), Article 16, Article 39 (a), Article 39 (b), Articles 39 (c) and Article 42 are of significant concerning gender equality."¹⁴

Article 14

¹² (2017) 1 SCC 101

¹³ 2021 SCC Online SC 404

¹⁴ Manuela and Sara Casaca, Gender Relations and the Dowry System in India (2016)

Articles 14 describes - The States will not deny to any individual equality before the laws or the equal protections of the law in Indian territories.

Article 15

“Art.15 proscribes discriminations on the ground of “religion, race, caste, sex and place of birth”. It can’t stop the States from creating any special provision for woman and child.”

Article 39

As per Art-39, the States will guarantee that man and woman have equivalent rights to a sufficient living, there is equivalent remuneration for man and woman, the financial systems don’t result in the focus of wealth and material resource is distributed to provide general purposes.”¹⁵

CONCLUSION AND SUGGESTIONS

The explanations for continuing the dowry system have to do with socio-cultural, religious, and economical factors as it is a complex phenomenon. The cause of gender discrimination and unequal marriage as a class/caste problem in Indian society originates from the distribution of unequal property and its accumulation into some money-minded people which ultimately culminates in a malfunction of dowry through the institutionalization of matrimony. The critical problem of the dowry system is that making a dowry demand is a cultural oxymoron that bears no resemblance to the historical meaning and practice of this institution.

To succeed over rigidity and severe custom of the community it is vital for the civilization and people living in community to initiate modern approaches against dowry. The essence of gender equality can only be inculcated within people by make the people conscious. Indian community is strict and patriarchal in nature therefore to it is tasks of immense hard work to eliminate the deep rooted tradition which is polluting the spirit of Indian community. To undertake various social awareness campaigns, programmes to attain the purpose of making

¹⁵ Ankita Chakraborty, Gender Justice Under Indian Constitution, International Journal of Legal Development, 2019

citizens conscious of gender equality. The campaign must be structured to attain the deepest stratum of the community and aimed to extend knowledge about the legal provision against dowry. There is an urgent requirement to endorse the necessity for giving education to girls.

The government should take effectual measures for stepping up 'anti dowry literacy' amongst persons via Lok Adalats, digital media, television and newspaper on a 'continuing' basis. Teenagers are the only ray of hope to efficiently fight the threat of the dowry system. They should be provided ethical value based learning to widen their mindset and widen their viewpoint.

It is never sufficient to just bring in acts and amends section to battle against dowry. It needs stern and merciless enforcement of the law. That aspects still leaves many to be preferred. Even if these allegations are taken very gravely by the government, lack of appropriate and effective investigative processes always causes the accused persons let free. The government authorities require to make sure the zero tolerance policies for such criminals and guarantee enforcement of the laws via systemic change.

Dowry isn't an individual issue, therefore community must take all measures to bring gender equality. Hence, the states must look at gender disaggregated information across the lifecycle to deal with gender inequality. There is an urgent requirement to expand child care and safe public transportation, lessen discrimination in hiring, and make affirming workplace environment.

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