



Dowry Death Section 304B, Indian Penal Code

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ABSTRACT

India is a country of diverse culture and traditions where people follow some rules, regulations and important norms related to their cultural fusions and ideas. One of the great and most essential practical and practicable idea is nothing but marriage itself. The idea creates a concept of togetherness of not only two people but their respected families and kinship also. The notion of marriage is simply somewhere ultimately related to give and take relationship on the name of gifts and presents from bride families to groom families and their relatives also. In other word or to simplify this the new belief and conception arose called dowry system.

In some areas this system is not even spontaneous and dark but this does not happen always in some areas it turned into a nightmare and the girl tortured or humiliated by the hands of her husbands, in laws and relatives because of many reasons related to the demands of things which some time even end with death. The social norms and agendas of some pathetic frame a gloomy structure of a society indicated uncertainty and shady part of human kind.

With the purview of this we should keep in our mind the fundamental discipline of putting efforts in the society with a confidence to creating a social structure which helps people to elaborate the idea of right and wrong as a reasonable prudent man can think and establish in a certain society for the wellbeing of mankind and to give a stable space for people to evolve themselves as a free bird.

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ACCORDING TO THE INDIAN PENAL CODE (45 OF 1860)

[The dowry death is clearly defined in section 304B (1)¹ Where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it shows 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 of dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Section 304B (2)² talks about punishment granted it says that 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 of life]

I. HISTORICAL BACKGROUND

The history of the dowry system is very vast and broad concept in itself. It has a space of many cultural and an association of different kinds of views, some people may evaluate this as a normal moral tradition and some might think that this is not the right this must be cover in the fort of immorality.

In understandable words we can frame dowry is something which is given to the bridegroom and his family or relative by bride family in some instance we can calculate it as a condition or in a lawyer term it can be said as a kind of consideration of marriage. In ancient times it was given in the form of lands, properties, cash, gold, jewellery, furniture, crockery, cattle, as a token of gift and to show love to the bride comfort and rooted position in the groom family it was considered as an unchangeable practice and bride family had to have perform the same.

There is also a concept of STRIDHAN¹, most of the people confused between the two. The ancient book Manuscript have mentioned all the elements related to it. Dowery was morelikely to indulged and associated with the upper section of the societies directly indicated to Brahmans and Kshatriyas on the other

hand bride wealth “STRIDHAN”. was associated with the lower section of the society. Manuscript named dowry as “YUATRAKA” which generally means gift this practice indicate an assurance to the two family that they are building a sacred and mutual relationship with each other and join hands in a nuptial.

The important point to be noted is that dowry is a gift that was given to the groom and his relative to use but bride wealth is only given to the bride, all the given goods were under the possession of bride only, it was considered as her own wealth and there is no right of husband and his family over that particular wealth. The woman can transfer all her property to her son or her daughter without the prior permission of her husband. And as with the permission of wife husband can also use the goods.

At the British time it was observed that the idea had not change its shape but mould itself into a new sphere. Zamindari system was evolved and it was circulated that women cannot hold any property and women were prohibited from holding any land and property by their own name as a result the gift which in the form of land or property that were given to bride from her family was ultimately gives to the groom, this was the reason misusing was increased and demand of dowry was also at its peak.

In other countries such as Iran, Afghanistan, Saudi Arabia dowry was existed they called it as DAHEZ but on the other had these counties have Islamic origin so they had also a concept of MEHER¹ which is a token or a kind of gift given by groom to her bride. In Muslim Law Act it is clearly mentioned that one of the essentials of marriage is MEHER without this marriage could not be performed and is incomplete, but Hindu Law doesn't have any instance of such behavioural practice of MEHER.

As a turning point it amounted to ended with cruelty of the society over the women if her father is unable to manage the sum of money and other gift to offer the groom and his family and it leads to mental torture of women, injustice toward women, harassment, physical and mental abuse some time it resulted death of a women as well.

All these issues create a great stress to eradicate and balance the cultural aspects of a society.

II. PROVISIONS UNDER IPC

As in the beginning of the assignment we have already mentioned the proper definition of dowry explained in IPC section 304B. This provision is clearly class biased as we can say that it is equal for all caste and class of a woman who is a victim of a particular crime and falls under the act. This act clearly gives an immunity to female gender for standing and fighting for right to life. If a is dead due to the reason of dowry it can also fall under Article 21¹ which is right to life. Every person and an individual have a right to safe their life and right to live freely.

Section 304B also mentioned some criteria to calculate the provision as it is said that any women who died under unnatural circumstances either by burn injuries or bodily injuries within seven years of her marriage and had been continuing the subject of violence, abuse, harassment, cruelty by her husband and in laws shall be considered as a victim of dowry. But in my opinion what if the victim has crossed the period of seven year and for instance if she died after 10 years of her marriage? Is it still under the consideration and an offence and will the accused still be liable for the same. Hence the essential element of the dowry death stated under the section 304B are as follows:

- Death of a married woman.
- Death caused by bodily injury or by burn or any other unnatural circumstances.
- Death within a specific period of time (7 years).
- Subject matter is important like harassment, mental and physical abuse etc.
- All the essentials are must related to the demand of money, property, as dowry.

A question is now arises here that what if a women or girl commits suicide under the pressure of such thing. Will it be considered under the dowry death? Will her husband and in laws be liable?The answer is yes, as the woman or girl was abetted to commit suicide her in laws and husband induced her to indulged into because of mental and physical pressure her. husband and in laws will be liable for her death and punished according to the law itself.

The section also covers punishment it is clearly mentioned in the section that such dowry death caused by her husband and in laws shall be punished with the imprisonment of a term which shall not be less than 7 years but may extended up to life imprisonment as well.

“Section 498A of IPC covers an important provision also it is mentioned that- it deals with husband or relative of husband of the women subjecting her to cruelty.

The section mentioned that whoever, being the husband or the relative of the husband of a women, subjects such women to cruelty shall be punishable with imprisonment for a term which may extended to three years and shall also be liable to fine”.

III. PROVISIONS UNDER CRPC AND EVIDENCE ACT

This specific topic is also covers under code of criminal procedure, as we know that IPC only discussed about the facts and the related and reasonable punishments. Similarly, CRPC talks and mentioned the procedure of related act in itself.

In section 174 of CRPC¹ it talks about police to inquire and report on suicide. In clause (3)I the case involved suicide by a woman within seven years of her marriage.

In (3) ii under the circumstances which in unnatural and suspicious that caused other person to commit suicide.

It is clearly mentioned that that police examined all the situation and also examined the dead body for further deep information and give all the report to the following magistrate.

In section 175 power to summon person is mentioned it says that police may passed a written order to summon suspects and interrogate them it is mentioned in clause (2) if the facts and evidence do not disclose the reason of death and a cognizable offence, death such person shall not bound to appear to the magistrate's court.

In section 176² inquiry by magistrate into cause of death is mentioned it is said that if all the condition is not clearly appeared in front of court the magistrate have power to established a special inquiry and investigation for the matter itself.

It implies where any person died or in case of rape against any women.

Some sections of this matter are also mentioned in Indian evidence act itself. We can that all the statement which court permits or requires to be made before it by Witness in relation to matters of facts under inquiry.

“Section 113B of IEA³ deals with presumption as to dowry death. In this section it is clearly mentioned, when a query arises whether a person has committed the dowry death of a women and it is shown that soon before her death such women has been subjected to harassment, abuse etc or in connection with any demand for dowry, the court shall presume that such person had caused the death”

IV. CURRENT POSITION IN INDIA

According to times of India in 2019¹, India reported around more than 7.1 thousand dowry deaths. It's said and reported that India has recorded 20 to 30 dowry death on every day basis caused by harassment, murder, compelled to commit suicide, burning death, physical abuse etc.

As per the data of National Crime Record Bureau (NCRB)² the annual figure of annual death rate of woman because if dowry is about 7000 and above. Statistics analyses the situation and circumstances and collect data for record and give society a measuring panel so that we can understand the sheer weakness of our society, legislature, and judicial power who leads this as a normal problem but it really creates a major loss toward our society. It generates a sense of distrust among people towards the government and its regulating policies to manage such crime. According to the recent news the three sister and their child were found dead in a well, they left a message and the victims were blaming there in laws for the same. The victims were constantly abused by her in laws for money and dowrybut her father was belonged to a low background and were poor and could not able to manage money which was demanded. As the three sisters took the step.

These kinds of cases are registered every hour and system is trying to find the loop hole and solution to dissolve and discontinue the pathetic practice which give a message of immorality to the society.

In a local newspaper the was that a man who live in the southern state of the country (Kerala) was held guilty and was jailed for life (Life Imprisonment) as he tried to murder his wife and gave his poison so that she died as he could control all the property provided by her wife family as dowry.

According to NCRB data, crime against women declined 8.3 percent in 2020 at 3,71,503 cases compare to 2019 at 4,05,326. It is very commonly seen in south Asian countries as well such as Pakistan, Nepal, Bhutan, Afghanistan, the five forms of domestic violence include physical harassment, sexual violence, mental abuse, honour killing and dowry death along with the burning practice are perform in these countries as well only India is not the victim of such kind of violent act it is notin culture of only particular area but it spreads all over the region liked boarder. It was said that a girl can never marry ifher family does not associate enough dowry for the groom's family and relative. They live in certain supremacy that a bride family should arrange a house with full set up in dowry along with car, gold, cash and property³. There are multiple facts which leads to this such as lack of education in certain areas along with the poverty, unemployment, dowry tradition, customary influence, early marriages and inadequate legislative frame work which did not give any solution to set this off. In Bangladesh dowry is called JOUTUK and according to the report of Bangladesh law agency between 0.6 and 2.8% bride died because of dowry related violence. Related case is SHSHNAZ HUDA 2006. UN consider it a major issue to be solve and played a vital role to eradicate in combating violence against women in all aspects of harassment including dowry death⁴.

V. RELATED CASE LAWS

KANS RAJ VS STATE OF PUNJAB AND ORS APRIL,2000¹: A married women Sunita Kumari found dead and the death was not in the normal circumstances, and demanded money as dowry as her family could not arrange so, but was result of the asphyxia. Her in laws choked her neck and attack on her as a result she had lost her breath her husband and in laws did not inform about the death of her family. The Police investigated the matter after post-mortem and filed a charge sheet against her husband Ramesh Kumar including other family member as well. The court held that all the it is a straight case of dowry death and held guilty under section 304B IPC, and sentenced life imprisonment.

BALDEV KRISHNA VS STATE OF BIHAR²: in this case a married girl was burned in her marital house and her husband and in laws could not prove the reason of her injury as the division bench of SC held that the PRIMA FECIE burden of prove is up to the husband and his family as they could not provide sufficient evidence of the injury it was assumed that the case was nothing but a dowry death and not an accident of suicide. The court held guilty and punished the accused.

BACHNI DEVI VES STATE OF HARYANA, 2011¹: KANTA DEVI the victim was married in 1990 after two month of her marriage her in laws demanded a motorcycle milk house vending business etc but the father of her was poor and could not full the desire of the accused. After that the husband and his family started harassing and gave threat that they will through her out of the house. After some days the it was found that the women dead. The trail court held that it is a case of dowry death and comes under section 304B of IPC. They were given punishment for seven years and rigorous imprisonment. After that an appeal was made in high court and supreme court that the case falls under suicide but the plea was rejected.

In **SATBIR SINGH AND ANOTHER V. STATE OF HARYANA 2021²**: the hon'ble Supreme Court of India delivered a landmark judgement occurring in section 304B OF IPC, 1860 the judgement was passed by CJI N.V Ramana and Justice Aniruddha Bose. The accused was married on 1st July 1994, the complainant was informed by some person that his daughter was ailing and admitting in the hospital, it was found that the accused was dead due to burn injury the prosecution argued that it was a suicide by setting herself ablaze and she was subjected to cruelty and harassment for bringing less dowry. The trial court convicted appellants for the offences under section 304B of IPC, the accused was given 7 years of imprisonment and extended 5 years more under section 306 abetment of suicide.

Similarly, there are many cases related to this such as:

- **SUNIL KUMAR SHARMA VS STATE CBI 2007.**
- **SMT.PHULAU @ PHOOLWATI AND ANOTHER VS STATE OF UP.**
- **STATE VS ANAD SHARMA 2012.**
- **SATYA NARAYAN TIWARI @ JILLY AND ANR VS STATE OF UP 2010.**
- **RAJENDRA SINGH VS STATE OF PUNJAB 2015.**
- **AZIZ AHMAD 2 AJIT VS STATE OF GOVT. OF NCT OF DELHI 2013.**
- **AMI CHAND VS STATE OF HARYANA 2015.**
- **JEVENDRA KUMAR VS JETENDRA SINGH 2015.**
- **RUPESH KUMAR VS STATE 2013.**
- **OM PRAKASH SHEGAL VS SHIMLA GARG 2015.**

VI. NEW GUIDELINES AND ACTS RELATED TO IT

As we all know the situation of our society and ill unnatural practise had been perform from years government of India start taking steps towards the welfare of human life and try to prevent and ban dowry system. As the society norms are very rigid it is very difficult to make understand people the pros and cons of the act¹.

Keeping all the facts and cases in view government introduced the guidelines of how to prevent dowry in India are as follows-

- Dowry prohibition act 1961
- Non-Legislative measures to abolish the practice
- Propaganda and publicity against dowry
- An appeal to the idealism of the youth
- Role of voluntary organisation
- Educate people
- Encourage inter and inter religion marriage
- DAHEJ -LENA PAAP HAI ABHIYAN
- SHAHADA MOVEMEMT OF 1972
- Domestic violence act.

VII. CONCLUSION

Dowry is a source of like a curse in a society which creates imbalance and kind of discomfort among people. Most of the people in our society belongs to the middle class and low background and for them there biggest dream is the marriage of daughters and sisters but they could not arrange a huge amount of money and property to give as dowry for rich class it is not a major issue but our society does not understand the difference between the financial situation of these two classes people expect the same from poor sections as well but, it is a course to the bride's family as a result the woman faces harassment, mental abuse as well as physical abuse as a result the unnatural death has been caused. We have already discussed provisions mentioned in IPC, CRPC, etc to protect human right and to give punishments to offenders. Government provide relives to the victims and evolve to many acts to prevent such activities in society.

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