

DOWRY DEATH: NEED FOR STRINGENT PUNISHMENT

Written by Deeksha Dubey

5th Year BA LLB Student, Jindal Global Law University

ABSTRACT

This author in this paper seeks to address the issue of insufficient and ineffective punishments for dowry death. Absence of stringent laws while punishing the criminals, the unshakable customs and inequality face by women in India all amounts to the root cause of dowry and the deaths caused due to it. Women are consistently subject to violence and harassment. She is burnt, harassed, murdered and the law only sticks to fine or life imprisonment. Increasing numbers of death figures only shows the incapability of the current laws to control the growing menace of dowry. After the enactment of Dowry Prohibition Act in 1961 there were many laws which were made and many amendments were done but all amounted to the failure of legislation as dowry is still taken and given, death caused by dowry still takes place, and criminals still go unpunished.

INTRODUCTION

In India marriages are drenched in ties of customs, traditions and unshakable profound cultural beliefs. These customs and Practices are transmitted through generations verbally or sometimes they are re-translated to adjust to the changing times. But there is one barbaric heinous practice which opposes any kind of change - the dowry system. Dowry is not only a bane for our society but also a struggle of women for equal rights. It is the root cause of many painful deaths of young women. It is an offense which has grown over the years as a social evil taking a barbaric, atrocious and brutal shape. Women are consistently subject to violence and harassment. She is burnt, harassed, murdered and the law only sticks to fine or life imprisonment. Increasing numbers of death figures only shows the incapability of the current laws to control the growing menace of dowry. After the enactment of Dowry Prohibition Act in 1961 there were many laws which were made and many amendments were done but all amounted to the failure of

legislation as dowry is still taken and given, death caused by dowry still takes place, and criminals still go unpunished. “There are many conferences like the World Conference on Human Rights in Vienna (1993), World Conference on Population and Development at Cairo (1994) and the World Summit for Social Development in Copenhagen (March, 1995), where women rights activists challenged the neglect of women and their rights in all of these areas and argued that the improvement of women's status anywhere depends on advancing their rights” .But this is just at international level, at national level women are still facing troubles to just raise their voice in their households.

ENACTMENT OF DOWRY PROHIBITION ACT

To control and punish this brutal crime government has amended laws from time to time. But are these laws sufficient enough to control such a menace. Dowry Prohibition Act [Act 28 of 1961] was enacted in 1961 to prevent the long standing tradition of taking or giving dowry. But this law was not sufficient enough to combat this growing evil.

“Although the Dowry Prohibition (Amendment) Act, 1984 was an improvement on the existing legislation, opinions have been expressed by representatives from women's voluntary organizations and others to the effect that the amendments made are still inadequate and the Act needs to be further amended. In view of the opinion thus expressed the Parliament further amended the Dowry Prohibition Act, 1961 by passing) the Dowry Prohibition (Amendment) Act, 1986 (Act No. 43 of 1986)”

“Criminal Law (second amendment) Act 1983 (Act 46 of 1983) Chapter XX-A was introduced in the penal code with Section 498- A, creating a new offence of cruelty, which provides for punishment to the husband or the relatives if they harasses the women with a view to coerce her to meet any unlawful demand for property” .These legislative measures clearly indicates the pressure and tension over the government to strictly deal with the problem of dowry. Then Dowry Prohibition Amendment Act, 1984, was brought by central government to bring more stringent changes in the act. New word “dowry death” was added through section 304- B which came into effect from November 19, 1986. Section 304- B defines dowry death in a following way:

1) “Where 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. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

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.”

But this section is not much help for women because mostly records are not maintained properly or complaints are not made during the time when the girl is alive. Laws are made and the necessary amendments too but numbers of death caused by dowry continues to increase. According to National Crime Records Bureau (NCRB) every hour one woman dies because of dowry, in 2012 figures reached to 8233 deaths of woman due to dowry. Most of the women who are killed by members of their family don't even find a place in these records. “And those few cases which somehow make their way to courts, the conviction rates are much less than 20%. Shoddy and unprofessional investigation by the police, corrupt doctors and public prosecutors, delay in the court, witnesses turning hostile are all contributory factors to the low conviction rate”. Other than this “there are more latent and unquantifiable aspects of aggression or invasion of the self by outside agents, namely emotional violence and other forms of cruelty which end up in suicides, self-stimulation, negligence of ailments, sex determination tests and denial of food” which women faces every day in their lives but cannot raise their voices to stop it.

ISSUES FACED BY THE ACT

The government after 49 years of the introduction of Dowry Prohibition Act 1986 has miserably failed in controlling the evil of dowry death. There are two issues which arise in front of us:

- a) Whether our government has successfully controlled the growing evil of dowry? If the answer is no, then
- b) Whether there should be amendment in our existing law, by introducing more stringent punishment of death penalty

Looking at the above facts and figures our answer for the first question comes out to be negative because dowry is only increasing and there is no decline in the number of deaths caused by it. All the legislative laws and rules are ineffective. People want a baby boy instead of girl child

because people consider girls as burden on their life as on her marriage they will have to pay dowry for her on the other if they will have baby boy they can take dowry from his marriage. Until this thinking will not change, the society will continue to remain in its same position of inequality and gender biasness.

Dealing with our second issue, law should be amended and death penalty should be granted to the criminal by whom dowry death took place. Section 304- b currently lays down punishment for life imprisonment and minimum 7 years of imprisonment. India gives death penalty but only to rarest of rare cases. But the offense committed in dowry is no less grave than murder. Dowry death is growing because criminal don't have fear of law. Crime committed under dowry is grave but the punishment is less. If we critically examine section 304 – b we will find that dowry death is different from murder. Though there is still a common element to both that is death of bride, the lack of nexus between the husband and wife's death makes murder different from dowry death. But dowry death comes under the scope of murder and giving capital punishment is legitimate. Though, we still have to adhere to the laws enacted by Supreme Court in the "rarest of rare case."

NEED FOR STRICTER LAWS

Section 304-b is ineffective to control the criminals involved in dowry death. In the case of *Nathu V. State of U.P.* wherein J. Katju (as he then was) said "In my opinion dowry death is worse than murder but surprisingly there is no death penalty for it whereas death penalty can be given for murder. In my opinion the time has come when law be amended and death sentence should be permitted in cases of dowry deaths".

There are certain cases of dowry death where criminal was convicted for murder, like in the case of *State (delhi administration) V. Lakshman Kumar and others*, in this case trial court laid down the judgment by saying that this case is among one of the most brutal and atrocious cases of dowry death and sentenced each of the convicted accused which were the husband, the mother in law and brother in law to death sentence.

In *Allauddin Mian and others V. State of Bihar*, there were certain guidelines given by Supreme Court while deciding the decision of punishment or sentence given by court. In one of those guidelines they said: "where the incidence of a certain crime is rapidly growing and is assuming menacing proportions, for example, acid pouring or bride burning, it may be

necessary for the courts to award exemplary punishments to protect the community and to deter others from committing such crimes”.

In *Satya Narayan Tiwari @ Jolly & Anr vs State Of U.P* on 28 October, 2010 geeta was married to satya narayan tiwari. She died three years after her marriage. her father surya kant dixit reported FIR that his daughters son-in-law and his mother killed her because he was unable to fulfill the demand of dowry for maruti car. The Supreme Court in this case said: “The manner in which the deceased was done to death, i.e., by first strangulating her and then setting her afire, needed at least two persons, because she [deceased] was also a young lady aged about 24 years. It is a case falling under Section 302 IPC and death sentence should have been imposed in such a case, but since no charge under Section 302 IPC was leveled, we cannot do so, otherwise, such cases of bride burning, in our opinion, fall in the category of rarest of rare cases, and hence deserve death sentence.”

A Bench consisting of Justices Markandey Katju and T.S. Thakur in the following case said: “Although bride-burning or bride-hanging cases have become common in our country, in our opinion, the expression ‘rarest of rare’ does not mean that the act is uncommon, it means that the act is brutal and barbaric. Bride killing is certainly barbaric.”

In another case of *Smt. Lichhamadevi V. State of Rajasthan*, is another case of dowry death where trial courts first acquitted the accused but later high court annulled the judgment and passed another order giving death sentence to the accused. Above cases shows that dowry death requires amendment of capital punishment because offenses committed in it are grave and atrocious in nature requiring stringent laws to control it in future. But in most dowry cases like these women are burnt, goes through harassment, goes through similar torture and violence. What about those cases, are they not barbaric enough to fall under the ambit or rarest of rare and shouldn't those criminal be given capital punishment. There are many countries where capital punishment is abolished. India follows balanced path by adopting life imprisonment instead of capital punishment. Capital punishment is given rarest of rare cases. So it is not a routine to give death penalty in every case. But what if most of the cases fall within the ambit of this rarest of rare?

Above mentioned are those cases with exceptions, there are many cases where convicted criminals were only awarded 3 – 4 years of imprisonment or they were just charged for fine. Some of them even got bail after 2 – 3 months for committing such vivacious crime which

accounts for murder. Some of them were not even charged for dowry death because in most of the cases facts were presented in such a way by the accused that they took a shape of suicide. There are no stringent methods that are taken by legislation to put a stop on dowry and the heinous brutality attached to it. Government, courts and even police are famous for deliberately ignoring to instances of dowry death and violence against women due to dowry. A hefty portion of women are brutally burnt to death- they are strangulated, often drenched in kerosene and are burnt alive. And our blind folded law calls these cases a just a mishap or accident .Mostly poor households of our country uses kerosene stoves which are risky and life threatening. In such cases when it becomes impossible to overlook evidences- the story takes a different form and is given a name of suicide- the wife, it is said could not adapt to the living of new family and consequently committed suicide by killing herself.

CONCLUSION

Unlawful acts like dowry death against women are not conventional wrongdoings which accuse commits under sudden rage of anger or for disputes of property; they are social law violations. They disturb the whole society. Therefore they require stringent punishment. Unfortunately , present situation of society is that out of desire for more wealth demand for dowry takes place and in the wake of concentrating as much money as they can they murders there wife and wed again and kills again, thereby they keep on marrying and killing there wife their wife for the same reason. This is a result of aggregate commercialization of our general public, and desire for money which instigates individuals to submit homicide of the wife. Its need of hour that law should be amended in order to protect each woman, who is someone's daughter, wife or mother. Criminals don't commit crime if they have fear of law. In order to stop criminals from committing crime and bring fear in them law should be made more stringent. Only then we will be able to control this increasing problem of dowry.