

Dowry Death Cases With Special Reference to Kamlesh Singh VS Vishwaraj Singh



K.G Sri Durga Priya, C. Renuga

Abstract: *The present study is about inhuman crimes which has its origin from dowry. It enables a detailed discussion on the timely interference of a judiciary which was considered as a new dimension in developing women's rights against exploitation in the name of dowry. The objective of this paper was to study about the aftermath ill effects on the victims of dowry offences and continued significance of such draconian practice even in modern era. The word dowry is almost synonyms with Indian women. Dowry is considered as a sacramental and indispensable custom of marriage especially in Hindu religion which turned into an illegal practices of the society due to its inhuman nature. According to manu shastra, women were regarded as lower class of people which denotes that they were undeclared slaves of such patriarchal society and such society never let women for observance of equality in marital relationship. In addition to that women's dignity is oppressed and questioned by such draconian practices like dowry. Shortcut of dowry indicating low status for women. Ineffective implementation of stringent laws which curbs death deaths indicates the deficiency of government machineries in protecting women's life. It also makes an attempt to investigate the legal instruments which related to the prohibition of dowry in India. The information acquired from this study show that Dowry Prohibition Act, 1961 took its significance and authority from section 498-A and section 304-B which was enumerated in Indian penal code, but Article 51-A of the constitution remains ineffective because such provisions were never considered as an enforceable before a court of law as it was lies in directive principles of state policy which will not bind any government machineries and it was merely a discretionary provision. In recent trends, education is considered as a tool for increasing their bargaining power in dowry negotiations instead of providing social awareness. Judiciary should ensure effective government machinery to implement the stringent laws along with the legal punishment, to do away with this evil practice. the purpose of this study random sampling method has been used There are a total of 1489 samples collected with regard to this study.*

Keywords: *custom, dignity, government machinery, judicial activism, inequality, stringent laws.*

I. INTRODUCTION

Dowry is institutionalised as an indispensable part of a marriage. Though it was said as of these were done voluntarily and out of affection and love. Customs and rituals are part and parcel of an Indian culture until it won't cause ill effects to society.

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* Correspondence Author

K.G Sri Durga Priya*, 5th year, Saveetha School of Law, Saveetha University, Saveetha Institute of Medical and Technical Sciences, SIMATS, Chennai, mail id: priya290997@gmail.com

C. Renuga, Assistant Professor of Law, Saveetha school of Law, Saveetha Institute of Medical And Technical Sciences, Saveetha University, Chennai, mail id: renuga.ssl@saveetha.com

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But dowry practice disguised as a custom have victimised women in society in many ways and such practices endangered women's life in the society. The original intention behind giving dowry by the bride's family to ensure her daughters well being and it purely voluntary act.¹ But this evil practice rooted in almost all parts and sections of the society. The efforts were made to eradicate such draconian practice from Indian society. In pursuance to such efforts to get rid of dowry death which was subsequently turned into a barbaric act, the State Governments of Bihar and Andhra Pradesh enacted. "The Bihar Dowry Restraint Act, 1950" and "The Andhra Pradesh Dowry Prohibition Act 1958". But these both legal instruments failed to achieve the objectives for what it was enacted and² On the 24th of April, 1959 dowry Prohibition Bill, in 1959 was introduced in the Lok Sabha.

II. MEANING OF DOWRY

The word dowry is almost synonyms with Indian women. Dowry is considered as a sacramental and indispensable custom of marriage especially in Hindu religion which turned into an illegal practices of the society due to its inhuman nature. According to manu shastra, women were regarded as lower class of people which denotes that they were undeclared slaves of such patriarchal society and such society never let women for observance of equality in marital relationship. In addition to that women's dignity is oppressed and questioned by such draconian practices like dowry. Shortcut of dowry indicating low status for women³. This inhuman act was rooted in every section of the Indian society and such practice were continued and still has the significance even in a modern era also.⁴ But the undisputed fact is that the prevalence of dowry never related to education, class and caste differences. Because recent trend indicates that the education was considered as a tool to increase their bargaining power in dowry negotiations and in Hindu marriage it was considered as a factor which determines their status and never did any compromises in giving and receiving dowry.

III. DEFINITION:

The practice of dowry was well defined and prohibited in legal instrument which can't be misinterpreted and manipulated and it means any property or valuable security given or agreed to be given or valuable security given or agreed to give either directly or indirectly by one party to a marriage to the other party or before or after the marriage to the other party or before or after the marriage to the other

¹ http://shodhganga.inflibnet.ac.in/bitstream/10603/21634/13/13_chapter%207.pdf

² Verma, M.P., 2017. "An analysis of dowry and dowry offences in India." *VIDHIGYA: The Journal of Legal Awareness*, 12(1), p.1.

³ Teja, M.K., 1993. *Dowry: A Study in Attitudes and Practices*, South Asia Books.

⁴ <http://dx.doi.org/10.2139/ssrn.2711605>.

party or before or after the marriage as a consideration for the marriage of said parties.⁵

Historical Background

In India customs play a vital role in every Indian's life because it is regarded as one of the culturally enriched countries and one among the customs is dowry which endangers the lives of women in India and it poses a threat to the Indian family system and the practice of dowry has traces its origin from ancient period and even it was mentioned in ancient Sanskrit texts which uphold the practice of dowry in India and it was considered as a pious obligation then but now such practices give way to economic exploitation.⁶ In India, women were treated as equal to goddess but the irony is that one among the customs itself endangering women's lives and poses a threat to Indian family system and contradictions itself shows that how such practice was changed a lot from ancient period to present situations and what makes such customary practices turned into a barbaric act of mankind.

The introduction of bill in parliament led into a wide and serious discussion because it was directly affects the long term custom which was followed by the majority of the Indians and it triggers the conservatives and Hindu fundamentalists who wanted to uphold the custom as part of their traditions. Amidst serious discussion, it was sent to a Joint Committee of both the Houses of Parliament for to make changes which paves a way to get an approval from both houses of the parliament. The Dowry Prohibition Bill was finally passed in the Joint Sittings of both the Houses of Parliament and it became an Act - The Dowry Prohibition Act, 1961 (28 of 1961) and it was received in the assent of the President on 20th May 1961. The laws which were made to curb the dowry has been construed as a stringent in nature but the culture observed here is more vigorous than such legal instrument and such traditions pass on to generations. According to an article in Time magazine, deaths in India related to dowry demands have increased 15-fold since the mid-1980s from 400 a year to around 5,800 a year by the middle of the 1990⁷. Dowry deaths in Punjab have risen from 55 in 1986 to 157 by 1997. Also, for every reported case, 299 go unregistered. According to sociologists, only 5 percent of reported cases are legally pursued. An IDC study says that 85 percent of dowry deaths and 80 percent of dowry harassment cases in Punjab occur among the lower and middle classes. The main reason behind these deaths is the sudden affluence in rural Punjab in the mid '80s perpetuated dowry as a means to upward material mobility. The main aim of the paper is to study the evil practices if any prevailing in the society relating to the practice of dowry.

IV. REVIEW OF LITERATURE:

This book deals with reference and historical background (Anon n.d.), this tells about the female employee working in office and their style (Teja 1993), this tells the connection between dowry or bridewealth norms and the status of women, inheritance (Basu 2005), this tells about the connection of dowry is much misunderstood with acts of violence against women (Bradley et al. 2010) this tells about the insightful 19973 two leading ideas and make a wide

ranging review of ideas (Goody & Tambiah 1973) this deals with the concept of dowry misunderstood and often regarded as with acts of violence of theoretical (Cowan 2010) it talks about the variety of theoretical and active approaches (Goody & Tambiah 1973) this tells about the Islamic and related information (Cowan 2010) this talks about the dowry system in India (Hooja 1969) this tells about the specter of dowry death and hunt in India society (Wyatt 2011) it talks about the phenomenon of dowry and conceptual perspective (Paul 1986) this tells about the concept of dowry and dowry death in cases (Sarda 2011) this tells in many parts of the developing world long term series of dowry (Walters 2018) it tells about the modern missionaries brought education famine relief agricultural others (Verma 2017) it tells about the unsuccessful arranged marriage (Wise 2017) this tells about the 20th marriage and family parenthood as a challenge (Chancey & Dumais 2009) this talks about the individualist frequency of single child relative to multi child (Grossmann & Varnum 2015) it talks about the complexity and the unions of aging male physiology (Katib et al. 2014) it talks about the purpose of effective smoking on semen and hormonal effectiveness (Al-Turki 2015)

CASE LAW:

Kamlesh Singh vs Vishwa Raj Singh. Facts: Appeal has been filed against impugned judgment and order on 15.10.1997 passed by learned sessions judge, under sec 498a and 304b ipc and sec 3/4, dowry prohibition act, police station Pisawan district Sitapur, Vishwaraj Singh and Munshi Singh have been convicted under section 304b of ipc. Information was logged by the complainant Chander Singh on 28.2.1998 at about 1:30pm that his sister was married to Kamlesh 4 years back. After marriage his sister was tortured by the accused and Kamlesh Singh used to beat her.⁸ When Tanka Devi used to come to her parents house, she tells to complain against accused. The accused Kamlesh Singh his brothers threatened to kill his sister. Shivraj, Devi's brother. When Shivraj, brother of the complainant went for mella pari rama. Accused Vishwaraj Singh meet him and told that if he will give the she-buffalo and vicky, then he has to face the dire consequences. Shivraj Singh staged in his other sister name and stayed there for the night. The next day he reached accused home and their accused was preparing to take the dead body of Janka Devi for cremation. Shivraj Singh asked what happened to Devi, Kamlesh got angry and didn't answer it. Afterwards Shivraj Singh sent one Raghuvir Singh to complain.⁹ The complainant came to the house of his sister Devi, thereafter he lodged FIR, which was registered 498a and 304b ipc and sec 3/4 dp act.

Judgment:

This appeal has been filed against the impugned judgment and order dated 15.10.1997 passed by the learned session judge, Sitapur in sessions trial no 567 of 1994 state vs Kamlesh Singh arising out of case crime no 30 of 1993 under section 498a and 304b ipc and section 3/4 dowry prohibition act, police station Pisawan, district Sitapur, where by the accused appellants la, the flesh Singh, Vishwaraj Singh and Munshi Singh have been convicted under sec 304b of ipc for 10 years rigorous imprisonment each under section 498 of

⁵ Anon, Dowry. In *Springer Reference*.

⁶ Teja, M.K., 1993. *Dowry: A Study in Attitudes and Practices*. South Asia Books.

⁷ <http://www.iosrjournals.org/iosr-jhss/papers/Vol17-issue4/H01743545.pdf>

⁸ <https://indiankanoon.org/doc/123123670/>

⁹ <https://indiankanoon.org/doc/162895024/>

ipcc for two rigorous imprisonment each and under section 4.¹⁰ Dowry prohibition act for two years rigorous imprisonment each. It was ordered that all the sentences shall run won currently.

Comparative Study:

India: The concept of dowry has been around since many countries and led to many told and untold stories of crime. The dowry prohibition act 1961 makes the giving and taking of dowry void and illegal sec 498a ipc penalise the husband and his family in case there is any cruelty on bride with 7 years of marriage.¹¹

England : Dowry system in England was introduced in the 12th century by the Normans earlier to this there was another kind of practice where the husband gave some kind of gift to wife, dowry was given at weddings by husband at church door. Dowry system in England allowed that noble families married their daughter off with the intention of gaining patronage ties daughters were treated as nothing but commodities.¹²

Russia: Dowry is also known as posing or *pridamose*. Mother was responsible for the matchmaking and father did all financial arrangements. It is very important to provide has absolute control of the family and dowry to the bride should also be made independent and this dowry was a huge sum of wealth.

China : Dowry is also known as 'JAZZ NUANG' in China two countries are their to gift. ¹³ 1st three months before the wedding the bride should be given some price this otherwise known as betrothal gift. The giving of the betrothal gift is the auspicious occasion is the symbol of good luck.

Precedent:

Case laws:

1. *Pawn Kumar vs State of Haryana (1998)*
In this case under section 309 the ingredients were identified as section 314. When the death of a woman is caused by any burns bodily injury occurs otherwise under normal circumstances and the offerance two facts springs within 7 years of girl's marriage and soon before her death she was subjected to cruelty or harassment by her husband or his relief this is in connection with the demand of dowry.

2. *Kans Raj vs State of Punjab (2000)*
In this case section 207 the death of women was caused by burns or bodily injury or had occurred otherwise than under normal circumstances such death with 7 years of marriage. The subjected to cruelty harassment by husband such cruelty or harassment should be for or in connection with the demand of dowry section 113b of the evidence act. It has to be kept in mind that presumption.

Hypothesis:

Ho: After the enactment of dowry prohibition act offence relating to dowry is not gradually decreased.

Ha: After the enactment of dowry prohibition act offence relating to dowry gradually decreased.

V. RESEARCH QUESTION:

There are no strict laws for dowry death in India?

VI. MATERIALS AND METHODS

In This research paper, the researcher has used non doctrinal method of study. The main sources are taken from secondary sources which are government websites, articles, journals, and books. This research paper used the empirical type of research which is done by survey method. The sampling size is 1498. Statistics is on percentage analysis. The sampling method is random sampling method. The main primary sources were collected from the general public in the form of survey from 1498 people. The information was from secondary sources from journal articles, books and reports of presidency and non-government organization. The dependent variable is that there is no strict laws for dowry death in India.

VII. DATA ANALYSIS AND DISCUSSION:

¹⁰ <https://indiankanoon.org/doc/123123670/>

¹¹ http://shodhganga.inflibnet.ac.in/bitstream/10603/52350/12/12_chapter%206.pdf

¹² http://shodhganga.inflibnet.ac.in/bitstream/10603/52350/12/12_chapter%206.pdf

¹³ http://shodhganga.inflibnet.ac.in/bitstream/10603/148573/14/14_synopsis.pdf

Table-1 Frequency Age * There is no strict laws for dowry death in India Crosstab

Crosstab			There is no strict laws for dowry death in India					Total
			Agree	Disagree	Neutral	Strongly Agree	Strongly Disagree	
AGE	18-30 Years	Count	87	14	171	127	84	483
		% within AGE	18.0%	2.9%	35.4%	26.3%	17.4%	100.0%
	31-50 Years	Count	147	49	184	70	138	588
		% within AGE	25.0%	8.3%	31.3%	11.9%	23.5%	100.0%
	51-60 Years	Count	65	33	100	37	75	310
		% within AGE	21.0%	10.6%	32.3%	11.9%	24.2%	100.0%
	60 and Above	Count	55	3	20	7	23	108
		% within AGE	50.9%	2.8%	18.5%	6.5%	21.3%	100.0%
Total		Count	354	99	475	241	320	1489
		% within AGE	23.8%	6.6%	31.9%	16.2%	21.5%	100.0%

CHI-SQUARE TEST

Chi-Square Tests			
	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	125.038 ^a	12	.000
Likelihood Ratio	118.679	12	.000
N of Valid Cases	1489		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 7.18.

VIII. DISCUSSIONS:

Out of the 1489 respondents, there were 483 respondents of the age group 18-30, 588 were respondents of the age group 31-50, 310 of them were respondents of the age group 51-60, 108 were respondents of the age group 60 & above, From them, **23.8%** of the respondents have clearly stated that they **agree** for the statement that, The new incorporation of provisions related to directors in the company empowers women, **6.6 %** of the respondents stated that they **disagree** the statement that The new incorporation of provisions related to directors in the company empowers women, **31.9%** of the respondents have stated that they are **neutral** for the statement that The new incorporation of provisions related to directors in the company empowers women, **16.2%** of the respondents have stated that they **strongly agree** with the statement that The new incorporation of provisions related to directors in the company empowers women, **21.5%** of the respondents have stated that they **strongly disagree with the statement** that There is no strict laws for dowry death in India . Moreover the value of Pearson chi-square test is **0.000** which is less than 0.05. In the result, the null hypothesis is rejected, that is after the enactment of dowry prohibition act offence relating to dowry is not gradually decreased. Hence the **alternative hypothesis is proved** for this table, that is after the enactment of dowry prohibition act offence relating to dowry is gradually decreased.

Suggestion:

The concept of dowry never specific to any particular class of people, sections of people and it is more generalized in nature and study shows that there is no disparity between rich and poor in the issue of practicing dowry as a custom and studied revealed that more educated people considered as their education as a value added quality to demand more dowry . Advocating through Social awareness was ineffective in curb these kind of ill mannered practice because such practice was more prevalent in most enlightened part of our society and the only way prohibition is through stringent laws with effective implementation of by government machinery and active participation of judiciary in this issues whenever government machinery has failed.

IX. CONCLUSION:

Practising Dowry has been a derogatory factor in Indian family system since it poses a threat to women's life and creating imbalance in family system. But the law is even stringent to prohibit such heinous practice happening over the years. Advocating through Social awareness was ineffective in curb these kind of ill mannered practice because such practice was more prevalent in most enlightened part of our society and the only way prohibition is through stringent laws with effective implementation of by government machinery and active participation of judiciary in this issues whenever government machinery has failed. Judiciary should ensure effective government machinery to implement the stringent laws along with the legal punishment, to do away with this evil practice.

REFERENCE:

1. Al-Turki, H.A., 2015. Effect of smoking on reproductive hormones and semen parameters of infertile Saudi Arabians. *Urology annals*,

- 7(1), pp.63–66.
2. Anon. Dowry. In *SpringerReference*.
3. Basu, S., 2005. *Dowry and inheritance*,
4. Bradley, T., Tomalin, E. & Subramaniam, M., 2010. *Dowry: Bridging the Gap Between Theory and Practice*,
5. Chancey, L. & Dumais, S.A., 2009. Voluntary childlessness in marriage and family textbooks, 1950-2000. *Journal of family history*, 34(2), pp.206–223.
6. Cowan, A., 2010. *Marriage and Dowry: Oxford Bibliographies Online Research Guide*, Oxford University Press.
7. Goody, J. & Tambiah, S.J., 1973. *Bridewealth and Dowry*, CUP Archive.
8. Grossmann, I. & Varnum, M.E.W., 2015. Social structure, infectious diseases, disasters, secularism, and cultural change in America. *Psychological science*, 26(3), pp.311–324.
9. http://shodhganga.inflibnet.ac.in/bitstream/10603/52350/12/12_chapter%206.pdf
10. Hooja, S.L., 1969. *Dowry System in India: A Case Study*, Delhi : Asia Press.
11. Katib, A.A. et al., 2014. Secondary infertility and the aging male, overview. *Central European journal of urology*, 67(2), pp.184–188.
12. Manning, W.D., Fetro, M.N. & Lamidi, E., 2014. Child Well-Being in Same-Sex Parent Families: Review of Research Prepared for American Sociological Association Amicus Brief. *Population research and policy review*, 33(4), pp.485–502.
13. Paul, M.C., 1986. *Dowry and Position of Women in India: A Study of Delhi Metropolis*,
14. <https://indiankanoon.org/doc/123123670/>
15. Sarda, M., 2011. The Concept of “Dowry” and “Dowry Death” - a Study in the Light of Supreme Court Decision in Ashok Kumar’s Case. *SSRN Electronic Journal*
16. <http://dx.doi.org/10.2139/ssrn.2711605>.
17. Teja, M.K., 1993. *Dowry: A Study in Attitudes and Practices*, South Asia Books.
18. Verma, M.P., 2017. “An analysis of dowry and dowry offences in India.” *VIDHIGYA: The Journal of Legal Awareness*, 12(1), p.1.
19. Walters, S., 2018. Becoming and Belonging in African Historical Demography, 1900–2000. In P. Kreager & A. Bochow, eds. *Fertility, Conjunction, Difference: Anthropological Approaches to the Heterogeneity of Modern Fertility Declines*. New York: Berghahn Books.
20. Wise, P., 2017. [Claude Bernard - then and now]. *Biologie aujourd’hui*, 211(2), pp.157–160.
21. Wyatt, R., 2011. *Broken Mirrors: The “Dowry Problem” in India*, SAGE Publications Pvt. Limited.

AUTHORS PROFILE



Ms.K.G.Sri Durga Priya, Student saveetha school of law, Saveetha School of law, Saveetha Institute of Medical and Technical Sciences (SIMATS), Saveetha University, Chennai-77, mail id: priya290997@gmail.com



Ms.C.Renuga, Assistant professor of legal studies, Saveetha school of Law, Saveetha Institute of Medical And Technical Sciences, Saveetha University, Chennai - 77, Mail id: renuga.ssl@saveetha.com.