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MISUSE OF ANTI-DOWRY LAWS IN INDIA

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What is Dowry?

Dowries are gift given by the bride or groom to their prospective better half which has a significant monetary value. In India, it is a custom that one should never go to another's house empty handed. Dowry here serves as a gift which welcomes both the families into their homes. It sounds like as though it is a beautiful thing. Truth be told that in recent times, Dowry has become more of an obligation than as a matter of choice. Women in India are tied to their husbands socially and economically. Hence, when there is not enough money in the husband's side to run the family smoothly, dowry is used as a ransom by the groom's side and daughter the hostage. The wife's parents are forced to pay dowry in order to protect their daughter and hence, dowry from a gift has become a ransom in India. Violence in the form of Cruelty, Domestic Violence, Abetment to commit Suicide and Dowry Murders are some of the major crimes against the parties in a marriage.

Dowry and Indian Laws

The first statute which came into force to protect the victims from harassment of dowry is the Dowry Prohibition Act, 1961. This was the first law which prohibited demanding of dowry, giving and also receiving dowry. Though this law has effectively made dowry an illegal act, several parts of the country still practice giving and receiving of dowry and hence, crimes against the wife take place.

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To further strengthen this, The Indian Penal Code added Sections 304B and 498A which made Dowry Deaths and Cruelty against Women. Section 113B of the Indian Evidence Act made a presumption that if the woman had faced torture and was subjected to cruelty on dowry demand, it was dowry death. Protection of Women from Domestic Violence Act, 2005 also provided civil remedies to the victim of cruelty and other forms of violence because of dowry.

The laws are there. Women can effectively get remedies because of the penal and other provisions which support and protect them from dowry. But is that the case? Dowry in recent days is slowly vanishing from the face of the society. The laws are still there, what to do then? This is where high misuse of the laws are taking place.

The laws, when looked at closely are women centric laws and hence, the burden of proof on non-commission of crime lies of the man. Numerous cases are being filed on account of trivial issues and are taken to the extent of dowry crimes.

Jasbir Kaur v. State of Haryana¹

The Punjab and Haryana High Court, while delivering the judgement observed that a wife in a divorce suit will go to great extents to bring in all the relatives of the husband in a desperate effort to get back whatever is left out of the broken marriage.

The above said order gives the people a bird's eye view on how desperate Civil Miscellaneous Appeals in matrimonial cases have becomes. The sad reality is that, with such women centric dowry laws, the amount of protection they have is enormous and even before the verdict of the court arrives as to whether or not the accused (husband) in a case is guilty or not, the media trials happen and even after the pronouncement of the verdict "not guilty", the defamation by the wife, the media and other sources bring in a total sense of exclusion from the society on the whole.

¹1990 S.C.C. OnLine P&H 235.

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The High Court of Delhi in the case **Savitri Devi v. Ramesh Chand**² rightly said that the provisions for protection of women against dowry cruelty were made with good intentions but in reality, the move has become counterproductive.

Women in recent days have a tendency which is further encouraged by the parents of the wife and other relatives to rope in all the relatives of the irrespective of whether they had an influence in the alleged crimes or not. The sad state of affairs is such that even school children are also roped in as perpetrators of the crimes. To worsen the already brittle situation, the burden of proof of non-commission of crimes lie on the husband and husband's side.

Sushil Kumar Sharma v. Union of India.³

Justice Arijit Payasat while giving the judgment said that observed that the idea behind the provisions is prevention of the dowry menace. The petitioner rightly contented that many incidences have come to notice where the complaints are not bona-fide and have been filed with ulterior motive. In cases of such, acquittal of the accused does wipe out the ignominy suffered during, prior and sometimes even after trial. Adverse media coverage adds to the already existing misery. The point to be noted is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Solely because the provision is constitutional, it does not give consent to corrupt persons to wreck personal vendetta or unleash harassment. It may therefore be necessary for the law makers to find out different ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Until such time, the courts must take care of the situation within the existing frame work.

Less tolerant and impulsive woman usually lodge an FIR even on a trivial act. What follows is that the husband and his family are arrested usually by a suspension or loss of job. Since this alleged offence is non-bailable, innocent persons suffer in custody. Claim for maintenance is another fuel to fire. The husband might realize his mistakes and come forward to turn a new leaf for a loving and cordial relationship. The wife might also like to seek reconciliation. This is not possible due to the legal obstacles. Even if she wishes to get back and go ahead with her marriage by withdrawing the complaint, she cannot do so as the offence is non compoundable.

²2003 S.C.C. OnLine Del. 483.

³2005 S.C.C (Cri.) 1473.

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The doors for returning to family life stands closed. She is hence left at the mercy of her birth family.⁴

The point to be noted here is that the real sufferers, the Rural Women are not sensitized about their rights, and fail to make use of these laws as well. Educated women in the cities have started using these laws as weapon to unleash personal vendetta on their husbands and innocent relatives.

Despite the many recommendations given to the Government of India by the Supreme Court of India and Justice Malimath Committee that the working of these laws should be reviewed and reformed with change in time, so that false victimization does not happen, and complaints made with mala-fide intention are not registered, the suggestion give to amend the laws have been largely ignored. This social evil is thus threatening the foundation and existence of the Indian Family system. Feminists are now demanding even more teeth to the existing women laws, and because of such pressures by them, more laws are being enacted for women. But the actual sufferers are not sensitized enough to make use of these laws, and these laws are getting misused in the hands of some clever Indian wives.

Conclusion

The newest weapon in a women's legal artillery is The Protection of Women from Domestic Violence Act – This law is absolutely pro-women and anti-men. This law has a pre-conceived notion that every man is a virtual torturer and considers women as the sole victims. This law is highly vague as well because it speaks of verbal/economical & emotional abuse, which cannot be quantified or ascertained. Husbands and their family members, falsely accused in these cases have committed suicide after being jailed, unable to bear the societal and mental trauma.

About 44.7% victims of suicides were married males whereas only 25% were married females. This shows the ratio of victims of domestic violence and gender abuse. It is high time for law enforcement agencies to pay heed and review these laws in public interest to check the growing misuse of these laws to ensure impartial justice and to protect the pious and sacred institution of marriage.

⁴Justice Malimath Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003.