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DOWRY DEATH

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What is Dowry?

The Dowry is basically the payment of the cash or gifts from the bride's family to the groom family upon the marriage. The following things are considered as dowry: cash, jewellery, furniture, car, utensils and the other household item which are necessary for the newly wed couple to start their life journey.

Dowry (i.e. dahej) is one of the most ancient practices in the medieval India. The Dowry ritual is basically practiced by the Hindus, Sikhs, Muslims and Jains. So, the dowry basically started off as giving their daughter gifts and other things which are necessary for their comfort. In the ancient times the Kings send their daughter with the dowries to ensure their daughter lived happily. During the British ruled India, they prohibited the women from holding any of the wealth or property thus the entire dowry now will be of the husband or his in-laws.

Causes of Dowry in India:

1. Tradition- Today dowry system has become the tradition which has we have been following from centuries. In today's India whether you have money or not you have to give dowry on the marriage of the girl.
2. Build Reputation- Today both bride's and groom family think that if they give dowry on the marriage thus it will increase their reputation and upheld their status in the society.
3. Illiteracy- One of the most important cause for the dowry is lack of education in the society. It has been observed that the demand for dowry has been more in the developing countries as compared to developed countries.

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Failure of Dowry Prohibition Act 1961:

The feminist movement in India was starting way before Independence has begun, but after the lull in the immediate post-independence years the feminist movement again gained movement in late 1970s. There were many issues raised by women when it became clear that the Independent India had not provided justice and equality promised to the women. One of the most important demands of that time was end of the dowry system with actions to be taken for crimes against the women. So, the Dowry Prohibition Act was enacted on May 1, 1961 - It was intended to prevent giving or receiving of dowry. Under this act dowry includes property, goods etc which are given by parents to the groom or to anyone else who is in connection with the marriage. The Dowry Prohibition Act 1961 mainly failed because of lack of public support behind this legislation. Still the practice of Dowry keeps on continuing despite the implementation of the Act. When dowry is not demanded it is basically assumed that the bride family will give some gifts and other things to the groom or his family members. On refusal to give the dowry to groom and his family there is always a chance that the wife has been harassed or being murdered, so these crimes are not even included in the Dowry Prohibition Act 1961.

What is Dowry Death?

Dowry Death in laymen term refers the death of young women who has been murdered or being driven to suicide by continuous harassment by husband or in-laws of the husband in the effort to extort dowry. In 1986 new offenses that is Section 304 B has been inserted In Indian Penal Code 1860 and a person committing offense under 304 B can be penalized and it can be more stringent than 498 A (Cruelty) of Indian Penal Code 1860.

For the purpose of this act the word Dowry will have the same meaning as of Section 2 of the Dowry Prohibition Act which defines Dowry as:

Dowry means any property or any valuable security which are being given or agreed to be given either directly or indirectly by one party of the marriage i.e. bride parents to the other party i.e. groom and his parents before or any time after the marriage in connection with the marriage of the said parties. This act applies to all of the India and it also does not have any retrospective effect.

Section 304 B

The offences under the section 304 B, it defines dowry death as the death which is caused to the women either by burns or the bodily injury or under any unnatural circumstances within

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the seven years of the marriage. Thus, it is shown that women was being harassed or being put to cruelty by the husband or his relatives in relation to the dowry demand. Under this act demand for dowry is punishable with a term of seven years to the life imprisonment

The first basic essential to prove the dowry is the death should be caused by either burns or bodily injury than under the normal circumstances. The basic ingredient to prove dowry death is the death of the bride within the seven years her marriage. The cruelty and mental harassment of the wife must be there in relation to the demand of dowry and such cruelty and harassment should be subjected soon before the death of the wife i.e. deceased.

There has been presumption in Section 113 B of Indian Evidence Act 1872 in which the presumption of culpable homicide will only be activated only when there is a proof that women have been subjected to the cruelty in respect to demand of dowry.

Case laws

1. Kamesh Panjipara @ Kamlesh vs State of Bihar

In this case Jackal Devi(deceased) married to appellant. At the time of the marriage appellant demanded Rs 40,000 and was paid to him. After marriage appellant again demand for buffalo but that demand was not fulfilled so due to failure family started torturing and beating the deceased. One day brother went to appellant place to meet her sister and found her dead. She had many injuries on her body. Session Court found appellant guilty and punished him with imprisonment of 10 years

2. Smt. Paiban vs State of Gujarat

In this case the deceased was sleeping, her mother-in law poured some kerosene oil on her with intention to kill her daughter in-law. When deceased came in his senses she started crying and asked for help, other relatives on hearing her voice took her to hospital for treatment but she had suffered severe burn injuries and doctor could not save her. The Supreme Court held mother in-law liable under Section 304 B on Dying Declaration of deceased that the mother in-law put her on fire.

3. Balder Singh and OR's. V/s State of Punjab

In this case Satwant Kaur(deceased)was married to appellant in 1991. Within 1-month family started asking for fridge and tv as a dowry. The Deceased told torture was done to fulfil dowry demand. When brother went to meet her sister, he found her lying on a cot. In letter she told

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that she was consuming poison because of harassment by husband and his family. The Supreme Court found appellant and her mother guilty under section 304 of IPC and punishment was given 7 years of imprisonment.

Conclusion

The dowry system has its roots from Ancient India but it has been prohibited in modern India but still widely practiced thus people take active participation in dowry system even the bride's parents gave dowry voluntary except for poor family although in poor family dowry system still exists in form of buying TV, bike for the groom (small kind of dowry system still exists in poor family). Dowry system is still followed despite the fact there are several laws regarding dowry. The author contents that there should be stringent rules regarding dowry system and also acknowledges the fact that general public are given awareness of demand of dowry, being against the law. Moreover, the author feels that parents should educate their daughter which is foremost reality in today's world and encourage them to choose their own carrier rather than forcing them.