

# DOWRY DEATH: EVIL OF MODERN SOCIETY

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## **INTRODUCTION**

Kanyadan is connected to the prehistoric marital customs of the Vedic era. According to Dharamshastara, unless the bridegroom receives a dakshina, the meritorious act of Kanyadan is not complete. As a result, the bridegroom must get something in kind or money when a bride is turned over to him. This is known as varadakshina. As a result, Kanyadan came to be associated with varadakshina, or presents in kind or money given to the bridegroom by his or her parents or legal guardians. The varadakshina was given out of love and was not in any way a requirement or factor in the marriage. Without any hint of coercion, it was a voluntary practise. And now in modern times this dakshina has taken other side of the coin i.e. The Social Evil which is a heinous crime when it showcases it's worsened aggravated forms like Domestic Violence, Cruelty and Dowry Death.

As this Social Evil is practiced by almost every section of the society irrespective of religion, caste etc. from which they belong, the harsh reality and thus the atrocious effects of Dowry Death have been witnessed in a more grievous manner. It is an everyday matter where the married women are not only harassed, ill-treated, humiliated, beaten and threatened but also thousands are forced to commit suicide, and not only that, but the cases also where the bride is burnt to death as a failure of non-fulfilment of the Dowry demands does chill down the spine of members of society.

## **LEGAL PROVISIONS FOR DOWRY DEATH**

The offence of Dowry Death is discussed and covered under the following legal provisions and with the help of such provisions the deceased can make the accused guilty for the offence committed by them i.e. dowry death.

**First, Cruelty on woman by Husband or Relatives: Section 498A, IPC** which is attracted when the husband or his relatives subject the woman to cruelty and harassment, and this could lead to punishment of imprisonment for a term which may be extended to three years and shall also make them liable to fine. *Cruelty means any wilful conduct which is of nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.* [1]

**Second, Dowry Death: Section 304B, IPC-** “when the cruelty or harassment done by husband or his relative against wife in furtherance of demand for dowry soon before her death by burns or bodily injury otherwise than under normal circumstances within seven years of her marriage.” Punishment is imprisonment for a term which shall not be less than 7 years, but which may extend to imprisonment for life. Also, the meaning of the term Dowry would be same as mentioned under Section 2 of the Dowry Prohibition Act 1961 (28 of 1961). [2]

**Lastly, Presumption as to Dowry Death – Section 113B The Indian Evidence Act, 1872** which provides for the presumption by the court that when there is a question that whether a person has committed the offence of dowry death of a woman and it is shown that soon before the death of woman she was subjected to cruelty in connection with demand for dowry then in that scenario the court will presume that the person has committed the act of dowry death of a woman. [3]

## **ESSENTIALS OF DOWRY DEATH**

In Pawan Kumar Vs State of Haryana [4] the Hon'ble Supreme

Court has laid down the ingredients necessary to attract section 304B, IPC which are as follows:

1. It is an offence of Strict Liability which means there is no requirement of mens-rea.
2. Death of woman by burns or bodily injury or occurs otherwise than under natural circumstances
3. Death of woman is caused within 7 years of her marriage
4. 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

### ***RECENT JUDGEMENT OF HON'BLE SUPREME COURT ON SECTION 304B***

Judgement was delivered by N.V. Ramana, CJI on 28<sup>th</sup> May, 2021. [5] By way of Special leave to Appeal, the Appellants challenged the judgement dated 06.11.2008 passed by High Court of Punjab & Haryana at Chandigarh. The Hon'ble High Court had upheld the conviction sentence of appellants passed by Trial court on 11.12.1997.

Issues raised were that whether the Trial Court & High Court was correct in convicting the accused on the charge of S/304B and S/306, IPC. The Supreme Court held that in order to prove S/306, IPC two elements needs to be proved firstly, the suicide was committed and secondly the person who is said to have abetted the commission of suicide must play an active role in the same. The two courts have decided the conviction under S/306 based on assumption and thus it was set aside.

The Supreme Court held that generally the criminal law is to be interpreted strictly but where such interpretation defeats the very purpose of statute then the court can devise the meaning. The intent of legislature behind using the word "soon before" was not "immediate before" as it is very subjective thus the court has to determine the same as per the facts and circumstances of the case.

Also the court relied upon *on Kans Raj V. State of Punjab (2000) 5 SCC 207* & *Raj Inder Singh V. State of Punjab (2015) 6 SCC 477* in order to explain the term “soon before” as the Proximate and Live-link between the cruelty and the consequential death of the victim. Moreover, under S/304b there is no specified time period in regard to the term “soon before” and once it is proved then the presumption under S/113B, IEA 1972 arises but it is a rebuttable presumption and the accused can provide the evidences before the court to disprove the same.

### **CONCLUSION**

Rather than dealing with the burning issues the members of society are gruesomely burning the brides. Some of the cases of dowry death chill down the spine wherein brutally the deceased was subjected to cruelty or harassment soon before her death within seven years of her marriage. The offence of dowry death need to be discussed as of utmost importance or else the ill situation in society would turn into worst and the innocent brides would be burned down or will be caused unnatural death in furtherance of the demand for dowry by the greedy section of society.

Dowry Death: Evil of the Modern Society is true indeed wherein such heinous crimes are happening in the modern world in the evil greed of dowry. Though the demand for gift and presents at the time of birth of the child is not dowry as laid down by Hon'ble Supreme Court on 31 January 2008.[6] It is called as disgraceful practice but cannot be categorised as dowry it makes it a punishable offence.

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1. Section 498A, Indian Penal Code 1860
  2. Section 304B, Indian Penal Code 1860

3. Section 113 B The Indian Evidence Act 1872
4. 1998 (3) SCC 309
5. Satbir Singh & Another V. State of Haryana 2021 SC, Criminal Appeal Nos. 1735-1736 of 2010
6. Times of India, Lucknow, Friday 1 February 2008, p.6 <https://timesofindia.indiatimes.com/india/customary-payments-gifts-not-dowry-sc/articleshow/2747113.cms>