



Study of The Dowry Prohibition (DP) Act 1961 and The Supreme Court 2014 Judgment on Dowry Law

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Introduction : Dowry is the money, goods or estate that a woman brings to a marriage. Dowry is illegal in India under the Dowry Prohibition Act of 1961, under which both giving and accepting dowry is offence. The punishment for violating the law is 5 years imprisonment + Rs.15000/- fine or the value of the dowry given, whichever is more.

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The Dowry Prohibition (DP) Act 1961

This legislation prohibits the request, payment or acceptance of a dowry, “as consideration for the marriage”. Here “dowry” is defined as a gift demanded or given as a precondition for a marriage. Gifts given without a precondition are not considered dowry, and are legal. Asking or giving of dowry can be punished by an imprisonment of up to six months, a fine of up to Rs. 15000 or the amount of dowry (whichever is higher), or imprisonment up to 5 years.

Dowry and Indian Penal Code

Apart from the Dowry Prohibition (DP) Act 1961, the menace of dowry has been covered in three sections of Indian Penal Code viz. Section 406 {recovery of the Streedhan}, Section 304-B {Dowry deaths} and Section 498-A {cruelty on the basis of demand of dowry}. However, there are some major issues with these laws as discussed under.

The issue of differentiation between the Dowry and Streedhan

Section 406 of the Indian Penal code is usually applied in investigation of stridhan recovery from the husband and his family. Stridhan is what a woman can claim as her own property within a marital household. It may include her jewellery (gifted either by her family), gifts presented to her during the wedding or later, and the dowry articles given by her family. Offences under this section are Non-bailable and cognizable.



The issue with this section of IPC is that it hardly demarcates the boundary between the Dowry and Streedhan. Streedhan belongs to the woman while dowry is something which is given by either party to another.

Issues with IPC Section 498A

Section 498A is considered to be most draconian provision of the IPC with respect to dowry. It says that if the husband or a relative of the husband of a woman, subjects the woman to cruelty, he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Here, the offence of cruelty is considered to be non-compoundable and non-bailable. This means that once a case is lodged, there cannot be compromise. This is seen as a big loophole in the Indian law because being a non-compoundable offence; the dowry laws have been misused to harass the groom's family.

In 2002, the Law Commission had recommended watering down the anti-dowry law to make it less stringent by allowing the woman involved in the case to withdraw the case with the permission of the court provided she is not under any pressure. The commission, headed by Justice PV Reddi, has also recommended to the government to make Section 498-A of the Indian Penal Code (IPC).

Similarly, Justice Malimath Committee on Reforms of Criminal Justice System, 2003 observed the following and gave the recommendation to amend the law immediately.

The Supreme Court 2014 and 2017 Judgements on Dowry Law

We have studied above that the section 498-A is considered to be most draconian provision of the IPC with respect to dowry. It has come under Supreme Court scrutiny several times and two verdicts, one of 2014 and another recent in 2017, are worth discussion here and to analyze if these make this law more effective or dilute it.



2014 Judgment

In the *Arnesh Kumar v State of Bihar*, a wife had alleged that her father-in-law and mother-in-law had demanded Rs 8 lakhs, a car, an air conditioner etc. in the form of dowry. When her family failed to pay this, she was threatened by her husband for second marriage and drove her out of the house. The Supreme Court however observed that there were several frivolous complaints lodged by women to falsely implicate their in-laws and thus laid down a checklist of nine criteria which must be complied with before arresting a person under Section 498A of IPC.

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