

Dowry, Its Causes and Consequences: A Sociological Study of Dowry Harassment and Death Cases in Aligarh District of UP

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Abstract

Dowry refers to “the property, money, ornaments or any other form of wealth which a man or his family receives from his wife or her family at the time of marriage. Dowry is both a practice and a problem with Indian marriage” (Haveripeth, 2013). The practice of giving dowry was meant to assist a newly-wed couple to start their life together with ease; however, now it has become a commercial transaction in which monetary considerations receive priority over the personal merits of the bride. Dowry system has given rise to many socio economic problems with very serious consequences. Numerous incidents of bride burning, harassment and physical torture of newlywed women and various kinds of pressure tactics being adopted by the husbands/in-laws’ pressurizing for more dowry have compelled the social reformers and the intelligentsia to give serious thoughts to various aspects associated with the institution of dowry (Sachdeva, 1998). Government of India enacted “Dowry Prohibition Act” in 1961, which was further amended in 1985 to control this menace. In spite of this Act, the “give and take” phenomenon of dowry is practiced widely throughout India, irrespective of caste and class (Grantham, 2002). In many cases, when dowry amount is not considered sufficient, the bride is often harassed, abused and tortured (Singh, 2005). Dowry related violence and bride burning (dowry death) are only peculiar to our country and beside husband, his kin also join together in persecuting the bride as the dowry and related customs provide a good excuse to them for humiliating, insulting and even beating up of woman (Haveripeth, 2013). The bride is helpless in her new home and physically so powerless that she cannot retaliate against the coercive tactics or actions of other; not many women have the guts to divorce their husbands on the ground of frequent mental or physical torture since they have nothing to fall back upon in a traditionally and poorly developed country like India (Singh, 2005). Recent studies suggest a link between domestic violence and dowry demands. Wife abuse has been found to be higher when a husband and/or his family believes dowry payments are inadequate (Banerjee, 1999; Bloch and Rao 2002), Suran et al (2004) in a study “Does Dowry Improve life for Brides” found that, in Bangladesh, married females who paid dowry at marriage “have a higher likelihood of reporting domestic violence compared to those who did not; in fact, paying no dowry is just as protective, if not more so, in terms of preventing abuse as the largest dowry payments”. Persons participating in dowry related violence are mostly mother in-law and siblings of the husband and Gautama & Trivedi found that in a majority of cases the husband and the mother in-law of the victim played a leading role in planning and execution of violence against the bride. These crimes appear to be a product of socially

structured expectations about dowry giving the inferior status of women and consequently the low bargaining power of the women and her parents; the growing urban consumerism among lower and middle class sections of the society as well as the lack of effective legal sanctions against such crimes (Haveripeth, 2013). Dowry related violence has been regarded as a universal phenomenon, cutting across all sorts of boundaries and is on continuous increase in India, it may be taken as a matter of grave concern that dowry harassment and death is one of the typical problems of Indian society (Singh, 2005). In this context it is necessary to understand the extent of dowry related violence and the resultant efforts made by the sufferers to stop control or overcome.

Keywords: Dowry, Section 498A, cruelty, dowry related violence, dowry death.

Introduction:

For over a century, eradication of dowry has been a major item on the agenda of the social reformers of all hues. In the last decade or so, it has perhaps received more attention than almost any social issue yet; dowry is nowhere, near being eradicated in fact, it has flourished and spread through all levels of society (http://www.manushiindia.org/pdfs_issues/PDF%20files%2034/2.%20Dowryto%20ensure.....pdf). The dowry system in India has a long history. To understand about the origin of dowry, we have to analyze the position of women throughout the ages. During the Vedic period, women were sufficiently educated and civilized. Marriage was not a social contract but a necessity in law and the married women enjoyed a place of dignity. Monogamy was the established system. Dowry system was prevalent in rich land lords only in the form of movable gifts. Widow Remarriage was also allowed during the period.

During the Epic period, the condition of women had deteriorated considerably. The concept during this period was that women are the root cause of all evils and narrow mindedness. Polygamy and polyandry were also in existence during this period. According to the texts, the legal position of a woman was always that of a dependent. The unmarried daughter was under the control of her parents, the wife of her husband and widow of her sons. Though a dependent, a woman might possess her own property in the shape of jewellery. The stridhan passed on to the daughter and not to son.

During the Sangam period, there was no statement of legal and social equality among the sexes. Manu stipulated that, "A women must be obedient upon her father in childhood, her husband in youth and upon her son in old age". She should never be free. Introduction of child marriage at an early age resulted in denial of educational right to women. Thus women's inferior position throughout the ages was, not merely in the family and society, but also in matters of property right (Jayapalan 2002:12-16).

During the Medieval period the system of dowry had taken a positive root of great magnitude from 13th to 14 century. However the amount of dowry began to increase disproportionately because of the exclusiveness of marriage with in one's own sub caste. During the later period of Muslim rule, the position of women had changed. Birth of a daughter was considered as a bad omen. Women were supposed to stay within the four walls of their homes and denied education. Polygamy was now an accepted practice in our

society. Purdah system also prevailed. Women's right to Stridhan was recognized though, there were some difference of opinion as to what really constituted as Stridhan. Women's exclusive right was only confined to "only a part of Stridhan comprising free gifts of affection". The idea that they had a share in the property was gradually gaining ground. During the British rule, dowry system had grown up into the monstrous curse throughout the country. Under the burden of heavy taxes, peasant families were inevitably compelled to find cash where they could or lose their land. As a result, the dowry increasingly came to be seen as a vital source of income for the husband's family. The British modified laws, especially those regarding land tenure and in that process, women became invisible and they became dependent on men. By 1850's dowry became a way of showing the appreciation, a family had for their daughter. During this period women were left without legal entitlements.

During the modern times, when India became independent, the Indian women were caught up in the shekels of socio-evils like dowry, sati etc. However, social reformers like Raja Ram Mohan Roy, Renade, Ishwar Chandra VidyaSagar and Mahatma Gandhi dedicated their lives to the abolition of these social evils like dowry, the fruitful result of their efforts were perceived first in Sind, called the Sind Deti – Leti Act in the year 1939. But this act however, failed.

After independence, however, the two states of Bihar and Andhra Pradesh enacted their own state laws, to stamp out the evil of dowry system. They defined dowry, as "Any property or valuable security given or agreed to be given as consideration for marriage". Giving and taking of dowry were made non-cognizable, bailable and non-compoundable. But these acts were not successful. In 1961, the dowry prohibition act was passed which made giving and taking of dowry, its abetment or the demand for it, has been made as an offence punishable with imprisonment with fine or both. This act was amended in 1984 and 1986 when the exploitation and suppression of women could not be checked. Thus Section 498A in 1983 and Section 304-B were incorporated in 1986 to deal with dowry-death. These sections have provided a tooth to the law. Today, dowry practice is a global phenomenon practiced by all people in India, with different religions; government is trying to eradicate the problem of dowry (Sharma 2006: 21-24).

(2) Dowry a social problem

The last few years have witnessed an alarming increase in the number of cases in which married women are harassed, tortured, abused and driven to suicide in circumstances which are highly suspicious. As this cruelty or harassment and even deaths have come to be associated with dowry in popular parlance they have come to be called as dowry harassment and dowry deaths. In majority of cases the victim is often a young and a recently married women. The phrase 'Bridal torture' and then 'Bride Burning' has come in vogue. The general public reacts vehemently against such inhuman acts and demands exemplary punishment to the culprit. But paradoxically enough, the culprit invariably goes unpunished taking advantage of some loopholes in the law. Sometimes the helpless young bride herself in sheer desperation resort to suicide from her hellish life. Rape and physical torture of young woman are common in most parts of the world, but bridal torture and burning appears to be an Indian phenomenon.

The major question that often strikes in the minds of the people about dowry torture that leads to bride burning firstly is, how common is this problem in our society? And what causes the in-laws and husbands to be violent to their brides or daughters in-laws? Since dowry related crimes and other forms of violence against women is a product of socio-cultural context such as types of dowry demand, socio-economic background of victims or of interacting families etc. there is a need to develop a theoretical framework by evolving concepts and theories to understand the problem of dowry torture and bride burning. An attempt has been made in this chapter to analyze the problem of dowry torture and deaths with a sociological backdrop (Umar 1994:87).

Dowry related offences under the law: Till 1983, the Indian Penal Code 1860 did not contain any specific provision to deal with violence against women within the matrimonial home and particularly dowry related offences. The guilty husband and the in-laws could be prosecuted under the general provisions of Indian Penal code relating to murder, attempt to commit murder, abetment to suicide, causing hurt, assault, or use of criminal force, outraging the modesty of a woman, wrongful confinement and causing disappearance of evidence etc. The criminal law Amendment act, 1983 created an entirely new offence unknown to criminal law in India. Chapter XX-A entitled 'of cruelty by husband or relatives of husband' which contains only one section 498-A, was inserted in IPC to deal with persistent and grave instances of dowry demand and such offence was made punishable with imprisonment which may extend to three years. Despite the dowry prohibition act and section 498-A these laws could not handle the dowry related offences and the constant increase in dowry death attracted the attention of the concerned persons. On the recommendation of the law commission the parliament passed a new law in 1986 relating to the offence of dowry death by introducing section 304-B in the IPC. Such deaths were made punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life (Jaishanker&Ronald 2013:85)

The criminal law was amended to create special categories of offence to deal with dowry harassment, cruelty to married women and dowry death. The protection of women from domestic violence act 2005 includes actual abuse or the threat of abuse whether physical, verbal, emotional. It also covers harassment for dowry or any other unlawful demands. In 1983 domestic violence was recognized as a specific criminal offence by the introduction of section 498A of the Indian penal code.

Section 498A: Section-498A was inserted into the Indian penal code in 1983(Umar 1994: 201). The object of this section 498A is to deal with a situation when coercion is used for demanding dowry after marriage by husband and in-laws. It also includes physical or mental cruelty. The wordings of this section are enough to apply to other situations of domestic violence" (Umar 1994:186-190).

Section-304-B: -- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that 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, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Explanation - For the purposes of this sub-

section," dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life"(<http://www.legalblog.in/2011/02/dowry-death-meaning-supreme-court.html>).

(3) What is section 498A of the Indian penal code?

Chapter xx-A of the Indian penal code 1860 which was amended in the year 1983 refers to "cruelty by husband or relatives of husband and includes section 498A".Section 498A states "who ever being the husband or relatives of the husband of a woman subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to 3 years and shall also be liable to fine.

Explanation: For the purpose of this section cruelty means:-Any willful conducts which is of such a nature as is likely to drive the women to commit suicide or as to cause grave injury or danger to life limb or health (whether mental or physical) of the women. Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is on account of failure by her or any person related to her to meet such demand (Sharma 2007:68). The increasing number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the joint committee of houses to examine the working of dowry prohibition act 1961, cases of cruelty by the husband and relatives of the husband which culminate in suicide or murder of the helpless women concerned constitute only a small fraction of cases involving such cruelty. It's therefore proposed to amend the Indian penal code, the code of criminal procedure and the Indian evidence act to deal effectively not with cases of dowry deaths but also cases of cruelty to married women by their in-laws.The offence shall be cognizable if the information relating to the commission of an offence is given to the officer in charge of a police station by the victim or by relative of the victim The Indian Evidence act 1872 is being amended to provide that where a woman has committed suicide within a period of 7 years from the date of her marriage and it's shown that her husband or any relative of their husband had subjected her to cruelty the court may presume that such suicide had been abetted by her husband or any relative of her husband (Sharma 2007:69-70).

Salient features of 498A: This is a criminal law that deals with issues that mostly takes place within closed walls. It deals with cruelty by husband or relatives of husband towards the wife. Cruelty or harassment is considered as a willful conduct with a view to meet unlawful demand. This offence is cognizable, non-bailable, non-compoundable and triable by judicial magistrate of first class. It's specified as non-compoundable. However only the high court can give permission for compounding the case in exceptional situation (Shirwadkar 2006:138).

Cruelty under the matrimonial law: Cruelty began as a sort of crime against grounds for dissolution of marriage i.e. cruelty is a ground for separation under the Hindu marriage act 1955 (Sharma 2007:73).In Ashwini Kumar Sehgal vs. Swatantar Sehgal the court observed cruelty in such cases has to be of the type

which would satisfy the conscious of the court to believe that the relation between the parties had meliorated to such an extent due to the conduct of one of the spouses that it has become impossible for them to live together without mental agony, torture or distress. It further said that cruelty as a ground for divorce under section 13 (1) of Hindu marriage act, is a conduct of such type that the petitioner cannot reasonably be expected to live with the respondent. Under the Hindu law, intention or motive is not an essential element of cruelty. The act or conduct constituting cruelty need not be always direct it may be in indirect form as well. When the wife is ill treated by the members of the family and the husband stood idly instead of saving or protecting his wife it also amounts to cruelty on the part of the husband.

Cruelty is divided into two parts – physical and mental cruelty. Physical Cruelty: violence by one spouse to another resulting in injury to body, limb or health or causing reasonable apprehension of the same have been traditionally considered as cruelty. In fact, this is the original meaning of cruelty, what acts or physical violence will amount to cruelty will differ from case to case depending upon the susceptibility and sensibility of the party concerned. In *Kaushalaya vs. Wisakhiram* the husband had been ill-treating his wife and beating her regularly. In this case the Haryana High court observed that according to the standards of all civilized world, these acts would constitute cruelty even though injury might not be serious so as to require the medical treatment (Sharma 2007:74). Mental Cruelty: In *Avinash Prasad vs. Chandra Mohini*, the Allahabad high court has held that, when the wife voluntarily deprives her husband cohabitation for a long period of time, it amounts to cruelty (Sharma 2007: 73-74). Mental cruelty can broadly be defined as “that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other”. It's not always necessary that a code of conduct be deliberately undertaken for the purpose of causing mental pain and suffering, in order for it to constitute cruelty. Act of alleged cruelty, may be judged by the effect produce and not by the motive provoking them. However cruelty may consist of remarks, statements, language or words that render the life of the spouse burdensome even if no personal violence is inflicted or threatened.

Words uttered without justifiable cause and for the purpose of inflicting pain or words tending to wound the feelings to such a degree as to affect the spouse's health or cause grave and weighty mental suffering constitute cruelty. Permitting those under ones authority to conduct themselves towards one's spouse in a way that seriously impairs the health of the person constitutes cruelty (Kapoor 2002:70-71).

Sexual difficulties such as denial by the spouse to have sexual inter course against the will of the wife may lead to cruelty against the wife. Acts of excessive sexual intercourse having ill effects on health motel or physical of the wife may amount to cruelty. It was held that mere consumption of alcohol by the husband may not ordinarily be a reasonable excuse for the society but when it's coupled with violence may be sufficient justification for her refusal. Causing physical hurt to his wife, obstinate insistence that the wife must eat meat and drink wine cumulatively constitutes cruelty. Illiteracy or low educational level is not an independent ground for matrimonial relief though education has an important bearing on the total

personality of women. Illiteracy coupled with an act affecting the health mental or physical of the spouse may amount to cruelty.

Shri. S.S. Chahar in his article “Matrimonial cruelty: Additive of new species” says that the nature of employment, job satisfaction and income as a correlate of employment are related to marital happiness in a family (Srivastav2005:162). Unemployment results in stress in families and leads to violence between spouses. Unemployment parse is not cruelty under the Hindu marriage act 1955 denial or inability to provide proper food and clothing to the wife may however amount to cruelty (Srivastav 2005:162).

Cruelty is an abstract concept; there is no specific definition or explanation given by any jurist. Cruelty can be of different forms such as mental, physical, direct or indirect, intended or unintended. It also depends upon different factors and circumstances such as social-cultural background of the woman, mental and physical conditions, etc.

Few instances of cruelty as a social evil in modern era:

- Slow starvation -is cruelty: The wife was compelled to do all the domestic works single handed. She was ill-treated and subjected to physical assault when she protested. She was not getting sufficient food and it resulted in slow starvation, thereby giving an emaciated look, to meet an unlawful demand of money. When she committed suicide cruelty stood proved in a court of law.
- Repeated demands of dowry amounts to cruelty: If repeated demands of dowry are made and harassment is meted out to a woman, who may be physical or mental, it is an act of cruelty.
- False allegations in litigation amounts to cruelty: The wife was subjected to a series of malicious and vexatious litigations in which extremely hurtful and offensive accusations were leveled against the wife of a sense of vindictiveness and wherein she was humiliated and tortured through the execution of search warrants and seizure of her personal property. These very acts when repeated and carried on constitute cruelty of an intense degree.
- Repeated taunts calling her ugly and mal treatment is cruelty: The wife was ill-treated from the next day of marriage and she was repeatedly taunted and mal-treated and mentally tortured by calling her ugly etc. This amounts to cruelty, mental torture for any bride.
- Neglect by husband also amounts to cruelty: The act of the husband was only that of disregarding his duty to provide the wife and the child elementary means of sustenance while he himself was squandering his earnings on gambling and other vices and was starving his wife and infant child to death (http://www.academia.edu/9531210/A_Doctrinal_Research_on_Section_498a_IPC_1860_-_A_critical_Analysis).

Thus IPC -498A is-

- Cognizable –the accused can be arrested and jailed without warrant or investigation

- Non compoundable-the complaint cannot be withdrawn by the petitioner.
- Non Bail able- the accused must appear in the court to request bail (Sharma 2007:74).

Section 406 Criminal Breach of Trust: In order to understand, the concept of criminal breach of trust, in reference to offences relating to dowry, it's necessary to understand Stridhan. "Any property given to a woman before, during and after her marriage, in connection with her marriage is considered as her Stridhan. Who so ever, whether the bride groom, his parents or his relatives or any other person, has received the dowry must hold it in trust for his bride. He must transfer it to her within the stimulated period of three months. If the woman dies, within a period of seven years of marriage, then the property would go to her children and if there are no children, then to her parents. If he does not do so, he will be guilty of dowry offences under section- 406.

Cruelty no abetment to suicide: In cases of abetment to suicide (www.thehindu.com/.../cruelty-no-abetment-to-suicide/article), there must be proof of direct or indirect acts of incitement. The mere fact that a man was cruel to his deceased wife is not enough to warrant conviction the Supreme Court has held. "Merely on the allegation of harassment, conviction in terms of section 306 IPC (if a person commits suicide whoever abets in it shall be punished with imprisonment of either description for a term which may extend to 10 years and is also liable to fine) is not sustainable," said a bench consisting of justices Arijit Pasayat and D.K Jain of Supreme court".

Section 107 defines general abetment, "A person abets in the doing of a thing when he instigates any person to do that thing or engages with one or more persons in a conspiracy for the doing of that thing." These things are essential to complete the abetment as a crime. In the instant case, *Kishori Lal vs. State Of M.P* on 19 June, 2007, Raj Kumari committed suicide in her matrimonial home on August 31 1982 following harassment by her husband Kishori Lal, according to the prosecution. The trial court sentenced him to 5 years imprisonment. His appeal to reduce sentence was dismissed by the Madhya Pradesh high court. Allowing his appeal against this Judgment, the bench accepted Kishorilal's contention that there was no evidence to show that he was in any manner responsible for the suicide by Raj Kumari. Further the allegation of torture made by her mother related to an incident which occurred 4-5 years prior to the suicide. There is ample evidence on record that the deceased was disturbed because she could not give birth to a child. The deceased was upset at this, according to the statements by 3 prosecution witnesses. If the background facts are analyzed, it's crystal clear that the prosecution has failed to establish its case; the bench said and set aside the impugned judgment (www.thehindu.com/.../cruelty-no-abetment-to-suicide/article).

The Supreme Court of India has ruled that the grooms and future in-laws will face the charge of demanding dowry if a proposed marriage fails to be solemnizing because the girl's parents were unable to pay (<http://www.dnaindia.com/india/zreport-dowry-law-applies-before-marriage>). Adding teeth to the anti-dowry legislation the apex court said "It's not necessary that the law applies only when the marriage has taken place but that it becomes active the moment the two parties start a dialog for marriage.

“The definition of the expression, “dowry” in section-2 of the dowry prohibition act cannot be confined merely to demand of money, property or valuable security made at or after the performance of marriage” a bench of justices ArjitPasayat and Ashok Kumar Gangly said. The bench said, “demand of money property or valuable security made to bride or her parents or other relatives by the bride groom or his parents or other relative or vice versa would fall within the mischief of “dowry” under the act even if the demand is not properly referable to any legally recognized claim and is relatable only to the consideration of marriage.” The ruling which widens the scope of dowry prohibition law came in an appeal filed by a “husband”, saying, that he couldn’t be charged with cruelty for demanding dowry as he had never married the woman who made the charge. The Supreme Court rejected husbands' plea that the “Victim woman” should establish that she was his legally married wife. It wondered if, “a person who enters into a marital arrangement should be allowed to take shelter behind a smokescreen.”

“Such legalistic niceties would destroy the purpose of the anti-dowry law provisions and would encourage harassment of a woman over money, the bench said”. The supreme court said that it would be appropriate to construe the expression 'husband' to cover a person who enters into a marital relationship and under “such proclaimed or feigned status” subjects the women to cruelty under section 304 B or 498-A(<http://www.dnaindia.com/india/report-dowry-law-applies-before-marriage->). “Whatever the legitimacy of the marriage itself”.

(6) Limitations of Section- 498A

The highhanded behavior of the laws and the breakup of the marriage have another side. Lodging of cases with the crime against women cell may not be genuine. Matrimonial discords unconnected with dowry demands or dowry related harassment are often given the colour of dowry by the wives to get even with their husbands. A critical study of the section 498A reveals that a provision which was originally designed to protect the bride from being harassed and physically tortured by the husbands or relatives unfortunately has been abused to hassle the husband and his family. The Supreme Court in one of its rulings said that -

But by misuse of the provision (IPC, 1860 498A - Dowry and Cruelty Law) a new legal terrorism can be unleashed. The provision is intended to be used as a shield and not an assassin’s weapon. Section 498A IPC, 1860 sometimes said to be gender-based law because recent study reveals that the provision provides protection only to women in the fight against husband and his relatives. A number of cases have been filed in the police station which forms the basis for the official statistics of dowry harassment, which otherwise implicates that only the woman are entitled to file harassment cases with an unlimited scope of fabricating stories and lies without even undergoing any penalty to pay compensation or any kind of damages (http://www.academia.edu/9531210/A_Doctrinal_Research_on_Section_498a_IPC_1860_-_A_critical_Analysis). The limitation of the law that emerged here are of 2 kinds -- Legal and Socio cultural.

Legal - Due to certain inherent deficiencies of the section such as the absence of guide lines for protection of the victim, the law failed in providing protection to woman. Due to the absence of supportive law cruelty of less gravity other than danger to life could not get proved. The gap between complaint and a

genuine case was unbridgeable. As the law deals with issues within the four walls getting proof was the most difficult part.

Socio-cultural - The inequality between men and women in Indian society is deep rooted and just one piece of law is insufficient to eliminate or change social evils. Cruelty or harassment between the relationship of husband and wife was in a way an accepted norm and this law has attempted to shaken this. However there is a long way to go before a right to violence free life is ensured to Indian women. Ignorance about the law in general and the legal procedures as well as misconceptions about it are yet other cause that affected the efficacy of the section. The study revealed that the society in general including the legal machinery especially the police force believe that dowry is a necessary component for filing a case under section 498A. This compelled them to mention demands of dowry in the FIR even though that was not the fact in each case. During the court proceeding and the cross-questioning by the magistrate the demand of dowry could not be proved in many cases. This resulted in making the case more weak leading to acquittal of the accused. So although the accused had committed cruelty and harassment towards the victim it could not be proved due to the style and pattern of writing FIRS .The biases\ prejudices and attitude of the implementing machinery particularly the police department as well as lawyers have affected adversely. The police department considered this a family matter and an extra burden to their already busy schedule. Hence filing a case under this section received least priority and was also treated as a routine matter. This was reflected in the stereotyped writing of FIR. The weak presentation in FIR ultimately impacted the verdict in favor of the accused party (Shirwadkar 2006:142).

(8) Misuse of section 498A

IPC section 498 Awas originally designed to protect married women from being harassed or subjected to cruelty by husbands and their relatives. This law was mainly aimed at curbing dowry harassment. Unfortunately this law has been misused to harass men and their families rather than protect genuine female victims of harassment(<http://www.legalserviceindia.com/article/l336-Section-498-IPC.html>).

In the wake of modernization, education, financial security and new-found freedom, the radical feminist lobby can however use 498A as a weapon. Many unfortunate husbands and in-laws have become victims of their vengeful daughters-in-law. Most cases where section 498A of IPC is invoked turn out to be fabricated as they are mere blackmail attempts by the wife or her close relatives, when faced with a strained marriage. In most cases of section 498A of IPC, the complaint is followed by demands for huge sums of money to settle the case out of court. Over the last two decades or more of criminal law reform, a common argument made against laws relating to violence against women in India has been that women should not misuse these laws. The police, civil society, politicians and even judges of the High Courts and Supreme Court of India have offered these arguments of the “misuse” of laws strongly. The 2003 Malimath Committee report on reforms in the criminal justice system also notes, significantly, that there is a “general complaint” that section 498A of the IPC is subject to gross misuse; it uses this as justification to suggest an amendment to the provision, but provides no data to support the contentions or to indicate how frequently

the section purports to being misused. It is important therefore that such “arguments” are properly responded to, and that there is a clearer and properly documented picture of the impact of criminal provisions that were enacted to protect women (www.ncbi.nlm.nih.gov/pubmed/22403123).

Conclusion:

It may be concluded that dowry a social evil exists in the society. Society continues to perpetuate the difference between a girl and a boy for the purpose of marriage, and it is this distinction, which makes the dowry system, thrives. It is very sad, that in our society, a female is considered a burden to a family or a liability for her parents. She is considered as a weaker section in our society. If we locate the origin of dowry we find that during the ancient period the dowry system was unknown. Vedic period was the golden period of women. Since marriage was considered essential for girls. During marriage the ritual of kanyadaan was an essential aspect, ‘dakshina’ in the form of gold coin and cash was given to the groom. All this was done out of love and affection. After the Vedic period ‘Smriti’s’ and ‘Manu Smriti’s’ pictured women in subordinate position to men. Her educational rights were denied and then she was considered as a burden. Later with the growing pressures of the Islamite’s upon India, position of women had further deteriorated. They were to live in purdah. Her entire rights were snatched. She only retained her right of stridhan. Later the British had invaded India, they imposed taxes. As a result the position of women had further meliorated. Great reformers like Gandhi, Raja Ram Mohan Roy etc. fought for women freedom. It was only after 19th century that women freedom and unity movement took momentum. After a lot of struggle in 1961, legislators passed the dowry prohibition act. In order to make it more effective and deterrent it was amended twice in 1984 and 1986(Sharma 2007:164-165).

The effects of dowry system are many and varied but in almost all cases it is the girl’s side which has to face the repercussions while the boy’s side walks away from the issue unharmed, with their heads held high. When demands for dowry are not met, the bride is subject to torture, and often even killed. Most of the dowry deaths occur when the young women, unable to bear the harassment and torture, commit suicide. Most of these suicides are by hanging oneself, poisoning or by fire. Sometimes the woman is killed by setting her on fire which is known as ‘bride burning’ and is disguised as accident to avoid criminal charges and punishment. Today dowry is not the innocent practice that it started out as but has turned into a social menace that cannot be reverted back to its original form; hence it must be eradicated from our society. (<http://www.youthkiawaaz.com/2010/12/dowry-system-in-india-then-and-now/>). Thus it is one of the most difficult and serious challenges to the present day society. Such a complex problem requires an integrated social endeavor to successfully overcome it. It has to be fought on various fronts, legal, social, educational, cultural and political. So many legal laws, penal laws etc. are available to check this phenomenon. So many anti-dowry processions and demonstrations are organized by voluntary groups. But this evil practice continues on unabated (Chitrasen 2006:190).

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