

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 1

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Unveiling India's Dowry Death Law: Misuse, Interpretation, and Legal Insights

ADEEB AHMAD¹ AND SARIM UDDIN²

ABSTRACT

This article delves into India's dowry death laws, focusing on the Dowry Prohibition Act, 1961, and Section 304-B of the Indian Penal Code, 1860. Despite legal measures to combat dowry-related offenses, instances of misuse and malicious prosecution persist. The essential elements of dowry death cases, such as the vague interpretation of "soon before her death," contribute to varied understandings and potential abuse of the laws. The article highlights cases where individuals, predominantly husbands, faced false accusations leading to grave injustice. While the judiciary intervenes to quash baseless charges, the continuation of other charges emphasizes the need for nuanced legal definitions and a balanced approach to prevent wrongful victimization in dowry death cases.

Keywords: Criminal justice system, criminal litigation, prevention of crime.

I. INTRODUCTION

"It often happens, that misery will follow a marriage when the dowry is too large."

- Decimus Magnus Ausonius

Marriage is a special kind of social institution where a man and woman forms a union to live together. In India we have different personal laws for people belonging from different religion. Most of the religion has a custom of giving dowry to their sons-in-law as a form of consideration for their marriage. Dowry is defined in Section 2³ of the Dowry Prohibition Act, 1961 as "*any property or valuable security given or agreed to be given either directly or indirectly—(a) by one party to a marriage to the other party to the marriage; or*

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person,

at or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies."

¹ Author is a student at Jamia Millia Islamia, New Delhi, India.

² Author is a student at Jamia Millia Islamia, New Delhi, India.

³ Dowry Prohibition Act, 1961, § 2, No. 28, Acts of Parliament, 1961 (India).

In India, Dowry is illegal and there is a special legislation to curb this social evil. Additionally, Section 304-B⁴ of the Indian Penal Code, 1860 deals with offences related to dowry death and provides punishment of imprisonment which shall not be less than seven years, and which may extend to life imprisonment. However, dowry is still practised in India, and it is demanded by the relatives or the family of the husband even after their marriage. But recently there are certain cases where the legislation is being misused by families and false cases are being filed against the husband. Since, most of the laws in India are women centric and certain words of the law are not explicitly defined which causes malice interpretation and courts falsely prosecute the person who is actually a victim in that particular case.

1. Essential Ingredients of Dowry Death

The essential components of Section 304-B are: (i) Death of a woman occurring otherwise than under normal circumstances, within 7 years of marriage. (ii) Soon before her death she should have been subjected to cruelty and harassment in connection with any demand for dowry. When the above ingredients are fulfilled, the husband or his relative, who subjected her to such cruelty or harassment, can be presumed to be guilty of offence under Section 304-B.⁵ These essential components mentioned above was discussed in the case of *Satvir Singh v. State of Punjab* and these essentials should be proved by the prosecution to convict the accused under Section 304B.

2. Otherwise than under normal circumstances

Death caused “otherwise than under normal circumstances—Meaning. —The expression “otherwise than under normal circumstances” would mean death not in the usual course but apparently under suspicious circumstances, if not caused by burns or bodily injury.⁶

3. Soon Before her death

The word “soon before her death” is not defined anywhere in the Indian Penal Code, 1860. The expression indicates that there must be a perceptible nexus between the infliction of dowry-related harassment and cruelty on the woman and death.⁷ It is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. Furthermore, the said term is not synonymous with the term “immediately before” and is the opposite of the expression “soon after” as used and understood in Section 114 III. (a) of the Evidence Act.⁸ Being a criminal statute, generally it is to be

⁴ Indian Penal Code, 1860, § 304-B, No. 45, Acts of Parliament, 1860 (India).

⁵ *Satvir Singh v. State of Punjab*, (2001) 8 SCC 633.

⁶ *Kans Raj v. State of Punjab*, (2000) 5 SCC 207.

⁷ *supra* note 4.

⁸ *State of M.P. v. Jogendra*, (2022) 5 SCC 401.

interpreted strictly. However, where strict interpretation leads to absurdity or goes against the spirit of legislation, the courts may in appropriate cases place reliance upon the genuine import of the words, taken in their usual sense to resolve such ambiguities. Therefore, courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term "soon before". Thus, held, phrase "soon before" cannot be construed to mean "immediately before". Prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives⁹. The Court referred to *Sher Singh v. State of Haryana*¹⁰, where it emphasized that the term "soon" should not be construed in terms of specific timeframes like days, months, or years. Instead, it should indicate that the demand for dowry was not a past event but a continuing cause for the death or suicide under Section 304-B.

4. Malicious Prosecution

Dowry deaths have become very frequent recently and it is a social evil that is still prevalent in our society. In 21st century when a lot of women are fighting for equal pay for equal work there are still instances of families giving dowry for their daughters. Various social reformers protested to remove this social evil, but it is still prevalent in our society. India has a separate legislation to prevent the taking and giving of dowry i.e., Dowry Prohibition Act, 1961. Additionally, Section 304B of the Indian Penal Code, 1860 deals with dowry death. Since most of the laws in India are women centric that's why the legislations are sometimes misused by the family of the deceased, and it leads to malicious prosecution of the husband. In a recent case of Hon'ble Supreme Court of *Phulel Singh versus State of Haryana*¹¹ the appellant was acquitted of all the charges levelled against him.¹² It was held that the dying declaration could not be considered as free from any doubt. Additionally, court said that there was not sufficient evidence to prove that the harassment was related to non-fulfillment of demand of dowry and therefore the case doesn't fall under the ambit of Section 304B of the Indian Penal Code, 1860. There are instances where the court has set aside the judgment passed by lower courts. Recently, **Rajasthan High Court**¹³ has set aside a judgment passed by the Trial court and acquits the man

⁹ Satbir Singh v. State of Haryana, (2021) 6 SCC 1.

¹⁰ Sher Singh v. State of Haryana, (2015) 1 SCR 29.

¹¹ Phulel Singh v. State of Haryana, 2023 LiveLaw (SC) 83.

¹² SURAJ KUMAR, *DOWRY DEATH CASE SUPREME COURT SURPRISED AT HC USING SAME DYING DECLARATION TO CONVICT HUSBAND WHILE DISBELIEVING IT FOR FATHER-IN-LAW*, LIVELAW, (SEP 28, 2023, 7:10 PM), [HTTPS://WWW.LIVELAW.IN/SUPREME-COURT/SUPREME-COURT-JUDGMENT-DYING-DECLARATION-RELIABILITY-DOWRY-DEATH-CASES-238936](https://www.livelaw.in/supreme-court/supreme-court-judgment-dying-declaration-reliability-dowry-death-cases-238936).

¹³ Sparsh Upadhyay, *Rajasthan HC Acquits Man Wrongly Convicted & Incarcerated For 12 Yrs Over Wife's Murder; State To Pay Him ₹25 Lakhs As Compensation*, Livelaw, (Oct. 3, 2023, 6:30 PM), <https://www.livelaw.in/high-court/rajasthan-high-court/rajasthan-high-court-acquits-wrongly-convicted-wife->

accused and directed the State Government to pay the accused a compensation of Rs.25 lakh within 3 months for the humiliation and the difficulty faced by the accused in jail for 12 years. Additionally, the court also stated that the accused was the victim in this case. In this case of false prosecution, the accused has lost his 12 years of life in jail, which has not only caused him humiliation but also has degraded his reputation. Even though the court has told the government to pay him compensation, that compensation cannot bring back the 12 years that he has lost of his life.

In a case of the Madhya Pradesh High Court of *Megha Singh Sindhe (Smt.) Versus State of M.P. Anr...*¹⁴ the court has quashed the prosecution launched against the petitioner under Section 304B of the Indian Penal Code, 1860. But the prosecution of the petitioner for the remainder charges punishable under Section 498A and 34 of the Indian Penal Code, 1860 shall continue. The court has also stated that the prosecution launched against the petitioner is hit by the view of malice and the bare reading of the allegations in the charge-sheet desperately falling short of the minimum prima facie requirement of satisfying the basic ingredients of dowry demand contained in section 304B¹⁵ of Indian Penal Code, 1860.

II. CONCLUSION

The issue of malicious prosecution in dowry death cases in India stands as a troubling reality amid the legal framework designed to curb this social evil. Despite legislative measures like the Dowry Prohibition Act, 1961 and Section 304-B of the Indian Penal Code, 1860 instances of false accusations and misuse of these laws continue, resulting in grave injustice and wrongful incarceration of individuals, predominantly husbands. The interpretation of critical terms such as "soon before her death" remains vague, leading to varied understanding and potential misuse. The absence of clear delineation opens doors to misinterpretation, enabling malicious allegations against innocent parties. The judicial system's intervention in quashing baseless charges under Section 304B of the Indian Penal Code, 1860 emphasizes the necessity for a stringent evaluation of evidence to prevent unwarranted prosecutions. However, the continuance of charges under Section 498A¹⁶ and 34¹⁷ of the Indian Penal Code, 1860 underscores the need for a more nuanced understanding of the context and evidence. In conclusion, while India possesses laws aimed at eradicating dowry-related offenses, the misuse and misinterpretation of these laws persist, resulting in the tragic misfortune of innocent

murder-state-25-lakhs-compensation-malicious-prosecution-239231?infiniteScroll=1.

¹⁴Megha Singh Sindhe (Smt.) Versus State of M.P. Anr..., 2010 SCC OnLine Jhar 216.

¹⁵ *supra* note 3.

¹⁶ Indian Penal Code, 1860, § 498A, No. 45, Acts of Parliament, 1860 (India).

¹⁷ Indian Penal Code, 1860, § 34, No. 45, Acts of Parliament, 1860 (India).

individuals facing malicious prosecutions. The judiciary plays a crucial role in discerning the veracity of allegations and ensuring justice, but there is an evident need for clearer legal definitions and a balanced approach to prevent the wrongful victimization of individuals in cases related to dowry deaths.
