

DOWRY, MARITAL VIOLENCE AND DOWRY DEATHS - THE LEGAL PERSPECTIVE

by

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ABSTRACT

Dowry is an age-old practice of exchanging resources at the event of marriage between two families stemming from limitation of resources and human nature of control and dominance, which has ultimately led to the establishment of marriage as a financial transaction rather than a Bonafide and supportive relation. Marital Violence stems from the human vice to suppress and has an anthropological basis. This paper aims to examine the History and reasons for the prevalence of these malpractices, as we see that in all parts of the world, common patterns of social vices are prevalent. However, after the Enlightenment and Feminist movements, the world has taken recognition of these women centric issues and responded with a gender-neutral approach to human rights through UN Conventions, particularly CEDAW. India has specific legislations to deal with Dowry and Marital Violence and criminal provision within the BNS to deal with Dowry Deaths. Judicial Precedents clarify questions of law in relation to these statutes making these laws more efficient in protecting the victims as well preventing misuse. There are certain implementation challenges concerning these laws such as judicial delays and lack of fund allocation, but this research paper also provides comprehensive solutions to the same.

Keywords- Dowry, Dowry Death, Marital Violence, Conventions, Judicial Precedents.

Introduction

Marriage is a social institution that leads to the formation of an interpersonal, shared economic and bonafide relationship between two individuals from two different familial units. It is usually carried out to foster mutual support, shared responsibility and decrease survival risk as a closely knit community. It is dependent on social norms, cultural and religious traditions and leads to the formation of mutual rights and obligations along with expectations. Since resources are limited, financial pressures and greedy human nature can turn the marital relation from a supportive bonafide partnership to a coercive, abusive resource centred exchange which may even have fatal violence as a consequence. Dowry refers to the practice of transfer of resources which includes, money, property and valuable assets, from one familial unit to another on the event of a marriage. It has been observed in many societies across the world performed with different intentions and purposes mainly for the fulfillment of cultural and financial needs but it has also been known to create financial burden and obligations on one of the spouses. Marital/spousal violence refers to any pattern of physical, mental, sexual or economic abuse committed by one partner on the other. It is a phenomenon impacted by multiple social variables, is irrespective of gender and extend beyond a single incident of violence but rather a chain of constant toxic actions of one spouse to control or dominate the other. This consistent intimidation may be fueled by dowry demands and expectations which may lead to the gravest consequence of death of a spouse. Thus, dowry deaths refer to instances where persistent dowry demands contribute to the fatal outcome. Sociologically, the impugned practices are a result of broader societal framework of beliefs, traditions, expectations and needs rather than individual conduct alone. Unequal distribution of resources and power dynamics in certain cases, result in clouding of judgement and give birth to malpractices at a mass level.

Objectives

The main objectives of this study are-

- i) To understand the meaning of Dowry, Marital Violence and Dowry Deaths,
- ii) The History and Reasons with focus on India,
- iii) The relevant Human Rights applicable,
- iv) The Indian Legal response to these malpractices,
- v) Pragmatic challenges in the implementation of these laws and
- vi) To provide meaningful Suggestions and Solutions to the Implementation issues.

The History and Reasons for the Prevalence of Dowry, Marital Violence and Dowry Deaths

A Dowry is usually a transaction from the bride's family to the Groom's family at the event of marriage. However, in some cultures, it goes the other way round with the Groom's family paying a dowry to the Bride's family, in some instances also called the Bride Price. Although this custom is outdated, it is still practiced in the 21st century in countries of Asia, Africa and the Middle East. Historically, dowry has been a part of the human society since thousands of years with references found in the Code of Hammurabi of 1754 BCE., one of the earliest surviving legal codes though predated by roughly three centuries by the Sumerian Code of Ur-Nammu (c. 2100-2050 BCE). The mention of dowry is rather an overwhelming evidence of its deep relation with society. At that time, it was not customary for daughters to inherit much from their parents but they did receive dowry which was managed by their husbands when they got married. Dowry acted as a security for women in the event of widowhood, divorce and a support for the newly wed couple as well as for their children. In places where single men outnumbered single women, a Bride price was paid to ensure a bride could be found. In ancient Greece, later Roman Empire and China (around 200 CE) dowry was paid by the Groom's family to the Bride's family. Also any property that the Bride brought with herself remained hers. But around 600 CE in China, Bride's family was expected to pay the dowry when at the same time the Qur'an required men to provide a dowry for the bride. In medieval Europe, dowry was the measure of a woman's desirability and the failure to give a dowry even resulted in calling off of marriages. In the 16th century in north America and certain Native American Tribes like Iroquois, had dowry arrangements as a part of their marriage contracts. However, the practice of dowry became scarce in many societies in the 21st centuries after the Industrial Revolution and the period of Enlightenment, when resources became more abundant and people started viewing a woman as an equal, post Feminist movements.

In India, the dowry was called 'vardakshina' which is a Sanskrit word meaning "amount given to the groom." This custom is around 5000 years old, with evidences as old as 3000 BCE. The Indian Epic Ramayana, describes how Sita paid a dowry to marry Ram. Whenever a father found a suitor for his daughter, he would discuss financial arrangements with the Grooms's family first. They would exchange valuable resources such as livestock, grains, land, jewelry or money. It acted as a hedge against divorce and a financial compensation if marriage ended. In ancient India, women were not allowed to own any property of their own, neither did they historically and religiously have any succession rights to their parent's property. The only

legitimate assets they owned was their 'Stridhan' which is a Sanskrit word from gift given by parents to their daughters upon marriage which was usually jewelry or gold. Stridhan is essentially different from vardakshina as Stridhan was a transaction between Parents and their own daughter, whereas vardakshina, even if it was for the benefit of the bride, was essentially a transaction between Bride's and the Groom's family. With time, this transaction came to be viewed as an essential gesture of appreciation by the Bride's family to the Groom's family and the amount of money came to be equated with the amount of sincerity. With a deeply rooted Patriarchy, and inevitability of human nature this system became a medium of greed satisfaction fueled by egocentrism. The situation in India today is that dowry is viewed as a prerequisite for marriage with direct relation between the position and capability of the Groom and the amount demanded. It is viewed as a sign of respect to the Groom and his family though an intent to return that respect is not usually seen. However, there are certain communities in India such as the Barela Tribe, and the tribes in North east and Southern India that pay the Bride Price or Reverse dowry to the Bride's family, based on her capability to work in the fields or fetch water and give birth soon after marriage. Here, again patriarchy sets in motion, and the community views the transaction as if they have bought the girl and that she must do as said. But this practice is scarce in comparison to the normal dowry.

These reverse dowry arrangements should not, however, be read as evidence of greater bargaining power for the woman concerned. Reporting on reverse dowry customs among certain Indian tribal communities notes that even where a bride price is paid to her family, decision making authority within the household typically continues to rest with the husband and his relatives, so that the practice does not by itself disturb the underlying patriarchal structure of the marriage.¹

Marital violence is a direct consequence of human nature to assert dominance and control. Thus, the anthropological problem is as old and widespread as humanity itself. It can be understood by the fact that there has been no country in the world which is free from domestic violence and as late as 2006, only 60 nations across the globe had passed laws that prohibited domestic violence, one of which is India. The number of countries with dedicated domestic violence legislation has grown considerably since then, reaching roughly 125 of 194 nations by 2011, which reflects a gradual but uneven global shift toward treating domestic violence as

¹ Village Square, 'Tribal Men Pay Dowry to Women to Marry Them' (VillageSquare.in)
<<https://villagesquare.in/tribal-men-pay-dowry-to-women-to-marry-them/>> accessed 15 August 2026.

a matter of state responsibility rather than a private family affair.² Although the problem has been gender neutral but it affects more women than men due to the prevalence of patriarchy and male egocentrism. Thus, most societies only recognize domestic violence against women. It affects women worldwide with estimates of violence ranging from 20-50% whereas only 3.4%-20.3% men in different countries and most of the affected men had been violent towards their partner as well. 1 out of 3 women globally, face domestic violence in their lifetime irrespective of their race, age, sex orientation, religion, social class, disability or lifestyle (WHO, 2002; 2013) with no necessary direct relation between cultural, political and economic pressures. Though there are no certain reasons for domestic violence, there have been certain factors identified that fuel the issue in India, which include Age gap in marriage, lack of education, patriarchal practices, lack of women empowerment etc. In the year 1990 alone, roughly 51,000 cases of domestic violence were reported in India. According to the latest report by The National Family Health Survey (NFHS) a large scale, and multi round survey conducted in Indian households in the year 2019-2020 revealed that-

“29.3% married Indian women between the ages of 18-49 years have faced domestic violence/or sexual violence. 3.1% of pregnant women between the ages of 18-49 have experienced physical violence during any pregnancy.”

Dowry death is an issue as old as dowry itself. It may be a combined result of the practice of dowry and domestic violence and is again rooted in the patriarchal mindset with the worst results faced usually by women. Since India has a rampant dowry system, dowry death has been a huge issue in India since time immemorial although the earliest systematic and official data for dowry deaths is available from the year 1987 with the NCRB report recording just over 1,900 dowry deaths across the nation, which rose sharply after the year 1991 with over 5,000 cases annually.

Despite the statutory presumption now codified under Section 80 of the BNS, conviction outcomes in dowry death prosecutions remain low. An analysis of National Crime Records Bureau data for the period 2017 to 2022 found that India recorded 35,493 dowry deaths, an average of about twenty a day, yet the conviction rate in these cases hovered between eleven

² UN News, 'More Countries Have Laws Banning Domestic Violence, Says UN Women's Rights Official' (UN News, 24 November 2006) <<https://news.un.org/en/story/2006/11/200542>> accessed 15 August 2026; Eugene Kiely, 'Clinton on Global Domestic Violence Laws' (FactCheck.org, 27 April 2015) <<https://www.factcheck.org/?p=94617>> accessed 15 August 2026.

and seventeen percent, attributable largely to evidentiary hurdles, hostile witnesses and delayed trials.³

The Human Rights Perspective

Human Rights refer to the basic rights that an individual is entitled to because of the fact that he/she is a Human being. They are inalienable, congenital and uniform. The UDHR (Universal Declaration of Human Rights), was adopted by the UNGA on December 10, 1948 through UNGA resolution 217A, having 30 distinct articles. Later, its principles were enforced through Covenants and Treaties. The practice of Dowry and the issues of Marital Violence and Dowry Deaths are clear violations of the principles of Human Rights which are internationally accepted.

1) Dowry as a custom violates the following-

a) ICCPR- International Covenant on Civil and Political Rights, 1966

Article 6- Right to Life – As per the General Comment No. 36, General Remark 3 of the UN Human Rights Committee, Right to life must not be interpreted narrowly and includes Right to live with dignity. The practice of dowry undermines human dignity as it turns a mutual Bonafide relation of respect into a financial transaction between families.

Article 23- Protection of Family and Equality in Marriage- The one sided dowry custom putting burden and financial expectation on one spouse leads to a clear inequality in marriage and jeopardizes the family as an exploitative arrangement instead of a supportive one.

Article 26- Right to Equality and Non-Discrimination- Dowry is usually one sided, rooted in the patriarchal mindset, putting social, financial and customary burden on the Bride's family based on gender, which is a clear violation of the principle of equality and non-discrimination.

b) CEDAW- Convention on the Elimination of All Forms of Discrimination against Women, 1981

Article 1- The custom of dowry falls in clear definition of discrimination against women as it violates the principle of equality between men and women which restricts the fundamental right of women to live with dignity.

³ The Print, '20 Dowry Deaths a Day, but Conviction for 1 in 6: A Tale of Evidentiary Hurdles, Delayed Trials, Apathy' (The Print) <<https://theprint.in/judiciary/20-dowry-deaths-a-day-but-conviction-for-1-in-6-a-tale-of-evidentiary-hurdles-delayed-trials-apathy/2738252/>> accessed 15 August 2026.

Article 2 (f)- This states that all laws, regulations, customs and practices that are discriminatory against women should be abolished. Thus, dowry as a customs needs to be abolished.

Article 3- Taking all appropriate measures to ensure development and advancement of women.- Dowry as a practice is downtrodding and exploitative in nature and thus, holds women back.

Article 5- Dowry is a social and cultural pattern of conduct, which is based on the idea of inferiority of women and superiority of men and is stereotyped against women. It ignores the idea of maternity as a social function and common responsibility in raising children, forcing gratitude in women for men.

It is worth noting that India's ratification of CEDAW carries a standing declaration on Articles 5(a) and 16(1), by which the government reserves the right to align these provisions with its policy of non-interference in the personal affairs of any community absent that community's own initiative and consent. Commentators have argued that this declaration blunts the Convention's mandate to modify discriminatory customary and family practices, including dowry, since its domestic application is left contingent on community consent rather than direct state action.⁴

2) Marital Violence violates the following-

a) ICCPR- International Covenant on Civil and Political Rights, 1966

Article 6- Right to Life- As per General Comment No. 36, General Remark 3, right to life should not be interpreted narrowly, thus marital violence is violative of the impugned article as it not only snatches the dignity of a woman but also her right to live in a safe and healthy environment which is free from abuse both physical and mental.

Article 7- Prohibits Torture or Inhumane treatment- Pestering a spouse, disrupting their peaceful living physically, emotionally or mentally is a clear violation.

Article 9- Assurance of Liberty and Security- Marital violence not only influences the sense of security of an individual but also constricts the Liberty to make their own decisions.

⁴ 'CEDAW Explained: How India's International Commitment to Women's Rights Shapes Domestic Law' (EBC Webstore Blog) <<https://blog.ebcwebstore.com/cedaw-and-indian-law-womens-rights/>> accessed 15 August 2026.

Article 26- Right to Equality and Non-Discrimination- Targeted and unjust violence against a particular spouse is a cause and effect of a discriminatory mindset which leads to an unequal treatment of a spouse.

b) CEDAW- Convention on the Elimination of All Forms of Discrimination against Women, 1981

Article 1- Marital violence is a discriminatory practice that alienates women from their basic right to live in safe and healthy environment without abuse.

Article 2(d)- Prohibits any form of activity that is discriminatory against women- Marital violence usually affects women more severely than it affects men, as supported by global statistics, with domestic violence impacting between 20%-50% of women across countries all over the world.

Article 3- Taking all appropriate measures to ensure development and advancement of women.- Marital Violence is downtrodding and exploitative in nature and thus, holds women back.

Article 5- Marital violence is a social and cultural pattern of conduct, which is based on the idea of inferiority of women and superiority of men and is stereotyped against women. It ignores the idea of maternity as a social function and common responsibility in raising children, forcing gratitude in women for men.

Article 11(2)- Prohibits discriminations against women on grounds of marriage or maternity- Marital Violence by definition is an abusive treatment of a woman in marriage due to the idea of superiority of a gender.

c) CEDAW General Recommendation No. 19, 1992- Establishes that violence against women is a form of discrimination. This clarification is an important interpretation of the impugned convention as it extends the scope of discrimination to address the most prevalent and pressing issue of domestic violence.

d) CEDAW General Recommendation No. 35, 2017- Establishes a detailed guide of dealing with Gender based violence and established that prohibition of violence against women as a Customary International Law, which can be implied as a step towards better enforceability.

e) DEVAW-Declaration on the Elimination of Violence against Women, 1993

The above declaration was adopted by the UNGA by UN Resolution 48/104, on which all the members agreed to the urgent need of countering violence against women. This shows the extent of the problem.

3) Dowry Death is an adverse consequence of dowry which may be coupled with marital violence and is thus violative of all the above international laws.

Landmark International Case Analysis

1)AT vs Hungary⁵, Date of Decision- 26 January, 2005

Facts-

The author alleged that she was subjected to ongoing and extreme domestic abuse by her common-law husband, L.F., and the father of her two children, since 1998. The abuse is said to have continued when L.F. left the family home. She also stated that L.F. threatened to kill her on several occasions and sexually assault their children. In spite of these dangers, the author did not go in a shelter as one of the children was severely disabled with brain damage, and there was no shelter in the country that could accommodate a mother with both a fully disabled child and another dependent child. The author mentioned several cases of serious physical violence, one of which left her in the hospital for a week. She changed the locks on the shared home to keep L.F. out and he filed a lawsuit to get back in. The Pest District Court sided with him and the Regional Court of Budapest affirmed this decision on appeal. The author also brought an application for the division of jointly owned property and criminal complaints against L.F., who were both pending as of the date of her first application on 10 October 2003.

Issue

Whether lack of an established legal procedure can be an excuse to ignoring a woman's rights under CEDAW?

Legal Arguments-

The Author

The author submitted that Hungary had violated her right to take care of her in compliance with its positive obligations under the Convention by failing to protect her from long-term domestic violence by her former common-law partner. She argued that due to the length of the criminal proceedings, the lack of any restraining or protection order in line with Hungarian law, and the

⁵ *A.T. v. Hungary*, U.N. Doc. CEDAW/C/32/D/2/2003

lack of the perpetrator's detention, she was deprived of the protection which was guaranteed under the Convention and under the Committee's General Recommendation No. 19 (GR 19). She also called on the State to adopt legal protection of victims of domestic violence in an urgent manner, train judicial and law enforcement officers on CEDAW and its Optional Protocol in a gender-sensitive way, and provide free legal aid for gender-based violence survivors. The writer pointed out that she had tried all the remedies she could think of in her homeland. She argued that many of the incidents took place prior to the coming into force of the Optional Protocol in Hungary but that the violence had continued, including a serious attack in July 2001 after the Protocol became effective. She also requested interim protection under the 'Committee's request for measures of protection' in Article 5(1) of the Optional Protocol, claiming Hungary did not comply with the Committee's request to take 'measures of protection' immediately.

The State

Numerous parties did not question the admissibility of the communication and Hungary responded to that objection by alleging that the author failed to exhaust domestic remedies. It also recognised that there was no immediate protection from abuse available through court action in the meantime and said that a comprehensive domestic violence action programme had been introduced in 2003.

Decision-

The Committee considered that the failure to proceed with the criminal proceedings within more than three years was an unreasonably prolonged delay, in view of the serious threats faced by the author and the fact that he was not granted any temporary protection during the time the criminal proceedings were ongoing. Thus, it determined the communication admissible. The Committee invoked General Recommendation No. 19, in which it established that States must exercise due diligence to prevent, investigate, punish and provide remedies for gender-based violence, when it reiterated its finding that States duty to protect carries into the acts of individuals within their jurisdiction. The Committee found that under this principle Hungary had breached Articles 2(a), 2(b), 2(e) and 5(a) of CEDAW, and read together with Article 16, Hungary had been failing to provide the author with effective legal protection and has failed to prevent discriminatory practices. The Committee stressed that a woman's right to life, security of person and equality are not subordinate to other rights, including the right to property. It suggested immediate action to protect and provide reparations for the author and called for

more general recommendations such as the adoption of effective domestic violence law, the application of national policies and awareness building of legal and law enforcement officials of CEDAW and its Optional Protocol.

Indian Legal Perspective

Dowry, Marital Violence and Dowry Death attract the following Fundamental Rights under Part III of the Indian Constitution-

Article	Fundamental Right	Relevance to Dowry, Marital Violence, and Dowry Deaths
Article 14	Right to Equality	Dowry-related discrimination and domestic violence often stem from unequal treatment within marriage, violating the guarantee of equality before the law and equal protection of the laws.
Article 15(1)	Prohibition of Discrimination	Prohibits discrimination on grounds of sex. Dowry demands and gender-based marital violence usually affect women and are discriminatory social practices.
Article 15(3)	Protective Discrimination	Enables the State to enact special laws in favour of women, forming the constitutional basis for legislation such as the Dowry Prohibition Act, 1961 and the Protection of Women from Domestic Violence Act, 2005.
Article 21	Right to Life and Personal Liberty	The Supreme Court has interpreted Article 21 to include the right to live with dignity, bodily integrity, mental well-being, privacy, health, and freedom from violence. Marital violence and dowry deaths directly violate these rights.

In 1961, pertaining to the rampant practice of Dowry all over India, which also led to devastating consequences in many cases, the parliament passed the Dowry Prohibition Act in the year 1961 to address the issue.

The Dowry Prohibition Act, 1961-

It aims to address the issue of dowry related violence and dowry deaths by targeting the root cause that is the dowry system. Section 1 of the act states that the legislation applies to whole

of India and post 2019, including the state of Jammu and Kashmir. After the passing of The Jammu and Kashmir Reorganization Act, 2019, as per Section 95 of the act, all laws mentioned in the Fifth schedule apply to the Union Territory of Jammu and Kashmir, Table I, Entry 18 of which explicitly mentions the Dowry Prohibition Act, 1961 and the omission of the phrase “except the state of Jammu and Kashmir.” from Section 1, Sub- section (2) of the Dowry Prohibition Act, 1961.

Section 2 of this act defines Dowry 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 parent of either party to a marriage or by any other person to either party to the marriage or to any other person

at any time before, during or after marriage in connection with the marriage of the said parties.

At the same time, the act under Section 3 also mentions the exceptions to the prohibition which include presents given to the bride and the bridegroom without any demand made on that behalf and any presents made by or on behalf of the bride which is customary in nature and does not have excessive value. It is implied that the act ensures that marriage does not have a financial precondition that may potentially undermine the bonafide nature of the relationship and dignity of either party concerned. The act differentiates between the presents given to the bride and the bridegroom by their own parents and the dowry paid from one party to another which facilitated transfer of resources from one household to another. Besides the act also allows customary or courtesy gifts which are usually exchanged for an amicable relationship between the two families without any derogatory emotion.

Section 2 also declares that Mehr or dower given to the bride by the groom is not dowry under the definition of the act. Stridhan or literally ‘woman’s wealth’ is a transaction between parents and their own daughter or relatives and the bride, within the same party for the benefit and security of the woman, and is thus not classified as dowry. Section 3 of the act also specifies the penalty for giving, taking and abetting the practice of dowry with imprisonment of not less than five years and fine not less than ₹15,000 or the amount of the value of dowry, whichever is more. The act also penalizes the sole act of demanding dowry under Section 4 with an imprisonment of not less than 6 months, except in special circumstances mentioned in the judgement, which may extend upto 2 years and a fine upto Rs 10,000. The act also talks about

the transfer of benefit of the dowry to the wife or her heirs under Section 6, displaying clear legislative intent to empower women. It bans advertisement of dowry and declares any agreement for giving or taking dowry to be void, which ensures the sanctity of marital relation. In fact, Section 8A of the act places the Burden of Proof on the accused to prove that he/she did not give, take, abet, demand or fail to transfer the property for the benefit of the woman, in case of an FIR. All the offences under are bailable but non-compoundable under section 8, which means there is no chance of compromise or settlement between the victim and the accused. The enforcement of these provisions is nonetheless uneven across states in practice. An analysis of National Crime Records Bureau data found that in 2022 several states and union territories recorded dowry deaths without registering a single case under the Dowry Prohibition Act in the same year, suggesting that the reverse onus and registration requirements created by the Act are not being uniformly invoked by investigating agencies.⁶ The severity of the trial provisions display a legislative intent of serious dealing of the issue concerned. The act provides for the appointment of Dowry Prohibition Officers by the State Government to prevent the impugned offences and aid in collection of evidence, which is usually the most challenging part of the investigation. Since they are the first line of defense, DPOs have better access to clear evidence collected timely. The act necessitates the maintenance of a list of presents given to the bride or bride groom by either party. The Dowry Prohibition (Maintenance of List of Presents to the Bride and Bridegroom) rules 1985, is a set of rules dealing with the maintenance of the impugned list, pointing towards the importance of the procedure. No court lower than the Metropolitan Magistrate or Judicial Magistrate of the First Class can take the cognizance of offences under this act. Certain State Police Standing Orders and Executive Circulars mandate the registration of a case under this act only by a Police officer at a high post such as ACP or DCP to ensure investigation is conducted well to determine if there is sufficient cause to register an FIR.

Landmark Judgements-

1) Prathiba Rani Vs. Suraj Kumar & Anr.⁷, 1985

Facts

⁶ IndiaSpend, 'Why Dowry-Related Crimes Are Underreported' (IndiaSpend) <<https://www.indiaspend.com/data-gaps/why-dowry-related-crimes-are-underreported-967773>> accessed 15 August 2026.

⁷ *Prathiba Rani vs. Suraj Kumar & Anr*, (1985) 2 SCC 370

Pratibha Rani was married in 1972 to Suraj Kumar following Hindu ceremonies. Parents gave her jewellery, clothes and other valuables to her worthing roughly ₹60000 at the time of marriage as stridhan. After marriage, her husband and his family allegedly treated her cruelly and demanded more dowry. She and her children were ejected from the marital home in 1977. Later, she was put back in by the Panchayat after the harassment, and eventually she was put out again and her stridhan was still in the respondents' possession. The respondents did not comply with the repeated requests or legal notices for the return of their property. Hence, she had filed a case under Section 406 IPC against the accused for criminal breach of trust. The Punjab and Haryana High Court set aside the proceedings, and her appeal was heard by the Supreme Court.

Issues

- 1) Whether the Hindu married woman has absolute right over her stridhan?**
- 2) Whether, upon marriage, the husband acquires only a right of custody over the stridhan or a right of ownership?**
- 3) Whether the husband's possession of stridhan makes him a partner to the woman or a co-owner?**
- 4) Whether a refusal to return it amounts to a criminal breach of trust under Sections 405 and 406 of the IPC?**

Decision and Reasoning

The Supreme Court, by a majority of 2:1, ruled that stridhan is the property of woman only, and that it is protected under Section 14 of the Hindu Succession Act, 1956. The Court has also made a distinction between stridhan and dowry, stating that gifts given voluntarily to a woman are her absolute property. The husband only has the right of custody over the woman's dowry, which is not ownership, a partnership, or joint title. The husband is legally bound to restore the stridhan although he can use it in rare cases of necessity. The Court also held that the failure to return the stridhan after the demand is a criminal breach of trust as per Sections 405 and 406 of the IPC. It decried the High Court's logic for effectively immunizing the husband from criminal responsibility, and that criminal law should be equally applicable in the matrimonial home. Justice Varadarajan disagreed and said that in general cases of dispute over property among husband and wife, there should be civil remedies instead of criminal prosecution.

2)Appasaheb and Anr. Vs State of Maharashtra⁸, 2007

Facts

After marrying Appasaheb, Bhimabai fell ill due to insecticide poisoning and passed away in three years. The prosecution contended that the sum of ₹5,000 and gold ornaments were given at the time of marriage, but later, the husband and his mother harassed the woman to provide ₹1,000-₹1,200 from her parental home for household expenses and buying manure. Bhimabai had spoken to her parents on the ill treatment on several occasions and after her death the accused were charged with IPC Sections 498A, 306, 304B. While the Sessions Court acquitted them of Sections 498A, 306, they have been convicted of Section 304B IPC by the Sessions Court, which was upheld by the High Court.

Issues

a) Whether the demand for money during scarcity of resources for domestic expenses such as buying manure is a demand for ‘dowry’ under Section 2 of Dowry Prohibition Act, 1961?

b) If the ingredients of Section 304B IPC (dowry death) were fulfilled?

Arguments

The prosecution contended that the frequent demand of money and harassment amounted to dowry murderous cruelty, which eventually resulted in Bhimabai's demise. It was the contention of the appellants that the alleged demand was not for dowry but merely for financial assistance for their agricultural and household needs, which are not related to the marriage. Therefore, it could not be termed as dowry under the Dowry Prohibition Act.

Judgment

The Supreme Court upheld this appeal and set aside the conviction of the appellants. It was contended that that the word 'dowry' in Section 2 of the Dowry Prohibition Act means property or valuable security which is demanded “in connection with the marriage”. A demand for dowry is a demand for money to pay household expenses or for buying manure, which may be harassment, but is not a dowry demand unless there is a direct connection with the marriage. Absence of this is one of the essentials of Section 304B IPC and the conviction of dowry death

⁸ *Appasaheb and Anr. vs State of Maharashtra*, (2007) 9 SCC 721

could not be upheld. The Court thus quashed the orders passed by the Sessions Court and the High Court.

Protection of Women from Domestic Violence Act, 2005-

This act meticulously deals with domestic violence and tries to address the issue of marital violence problems in a women and family friendly manner. It focuses on building a protective and supportive ecosystem by laying out multiple civil remedies along with criminal remedies to make sure the women don't back out from reporting incidents due to fear of familial fallout.

Section 2(a) of this act specifically defines an "aggrieved person" as a woman who is/has been in a domestic relationship and has suffered domestic violence. Section 2(f) defines a domestic relationship as a relationship between two persons connected by consanguinity, marriage, adoption or as a joint family living together in a shared household. Section 3 of this act defines "domestic violence" as any act, omission, commission or conduct that harms, injures or endangers the health, safety, life, limb or wellbeing or threatens the aggrieved person and includes physical, sexual, emotional and economic abuse. It also includes coercion fueled by demand of dowry or property. Thus, domestic violence entails violence in a shared household against any woman by a person who is related to her, and may be her father, brother, husband or son or mother, sister, daughter or in-laws, making the scope of this act very inclusive.

The types of **domestic violence** are as follows-

- (i) **Physical Abuse** - Physical abuse is any act or behaviour that causes physical pain, injury or risk of physical pain, injury or physical harm to the person being abused or to their physical health or development, such as acts which have an adverse effect on their physical health or development. Also includes assault, criminal intimidation and use of criminal force.
- (ii) **Sexual Abuse** - Sexual abuse occurs when a sexual act is used to exploit, humiliate, degrade or otherwise violate the dignity and body autonomy of a woman.
- (iii) **Verbal and Emotional Abuse** - The following are all forms of verbal and emotional abuse:
 - (a) Insulting, ridiculing, humiliating or using derogatory names – especially because of a lack or no child, or not having a male child.
 - (b) Threatening to inflict physical harm on the aggrieved person or another individual with whom he/she has a close emotional connection in more than one manner.

- (iv) Economic Abuse - Economic abuse includes:
- a) Refusing the aggrieved person access to any financial or economic resources to which he/she has a legal or customary right such as maintenance, household necessities, rent for the property of the household, stridhan and property belonging to him/her or shared with him/her.
 - b) Alienating or disposing of household effects or any movable or immovable assets, valuables, shares, securities, bonds, 'stridhan' or other property, in which the aggrieved person had any legal interest or right to use by reason of the domestic relationship or which is reasonably needed by the aggrieved person or children.
 - c) To limit or block access to resources or facilities to which the aggrieved has a right to enjoy or use because of the domestic relationship, such as access to the shared household.

The act recognizes Service Providers, which are either voluntary associations or companies for the purpose of protecting the rights and interests of women that are registered with the state government under Section 10. It gives powers to the service providers to record domestic incident reports and forward them to protection officers and magistrates. They have the power to take the victims to hospitals to get medical reports and assist in serving the interests of law. The act also establishes the position of Protection officers under Section 8 and are under the control of the magistrates and gives them the power to assist the magistrates directly in recording domestic incident reports and forward it to the police officers, helping the woman get a medical report and file an application to the magistrate if she so desires, assisting in providing legal aid and availing shelter home to the woman and maintain a list of all service providers in the area. At the same time it grants a safe harbour to the protection officers for all damage caused due to actions done in good faith and in discharge of their duties under the act under Section 35. The act also allows the magistrate to order the victim and the accused to undergo counselling through service providers under Section 14. The act also grants the right to reside in a shared household whether she has any right, title or interest in the same. Thus, it very successfully establishes an approachable and comfortable system for a woman where she can easily complaint and get issues resolved without fearing complex procedures and strict legal consequences for her family, but at the same time ensures the law is set into motion and the incidents are brought to government notice, at least theoretically. After the complaint reaches the magistrate, which may even be filed directly through an application under Section 12, they have the power to give protection orders, residence orders, monetary reliefs,

compensation orders, custody orders and grant interim reliefs and ex parte orders(only on the basis of the affidavit presented by the aggrieved person). This act gives the woman an option to avail rehabilitative out of court remedies or undergo a stricter court case to claim active protection and compensation against the accused. The act also grants a relief in proving whether the violence occurred, as upon the sole testimony of the victim, the forementioned may be concluded, as per Section 32. The act establishes criminal penalties against the abuser after he/she violates a protection order already given by the court under Section 31, of imprisonment upto 1 year or fine upto Rs 20,000 or both. Another criminal penalty lies against a protection officer if he/she fails to fulfill his/her duty of executing the protection order without sufficient reason, however for the cognizance of such offence, a previous sanction by the state government is mandatory as mentioned in Sections 33 and 34. Thus, the threshold of a criminal case is higher, making it a balanced approach. It is clarified in the act that all the remedies mentioned above can be claimed in both a civil case and a criminal case.

The practical reach of these remedies has nonetheless been constrained by resourcing gaps. A policy review of the Act's implementation found that a substantial share of the funds earmarked under the Nirbhaya Fund for schemes supporting survivors of violence, including One Stop Centres, remained unutilised nearly a decade after the Fund's creation, indicating that the shortfall lies less in the design of the statutory remedies than in their financing and administration.⁹

Remedies under this act are discussed in detail below-

- a) Protection Orders- Section 18 of this act deals with the powers of the magistrate to issue protection orders that prevent the respondent from committing any further domestic violence, attempting to communicate with the aggrieved person, alienating assets of the person, causing violence to the dependents of the victim.
- b) Residence Orders - Section 19 deals with residence orders and all the provisions that relieve the victim from the fear of being ousted from the shared Household or the leaving of the household by the respondent thereby protecting marriage.
- c) Monetary Relief- Section 20 deals with monetary relief to meet the expenses incurred and the losses afford by the victim and any child and includes the loss of earnings, the medical expenses the loss caused you to destruction of any property from the control

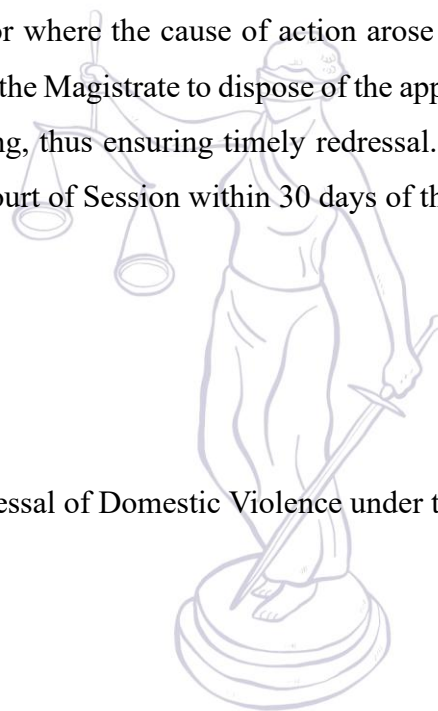
⁹ Oxfam India, 'Implementing the PWDVA: Safeguarding Women from Domestic Violence' (Oxfam India Policy Brief No 14, October 2015) <https://www.oxfamindia.org/sites/default/files/PB-Implementing-PWDVA-Safeguarding-Women-from-Domestic-Violence-261015-ENG_0.pdf> accessed 15 August 2026.

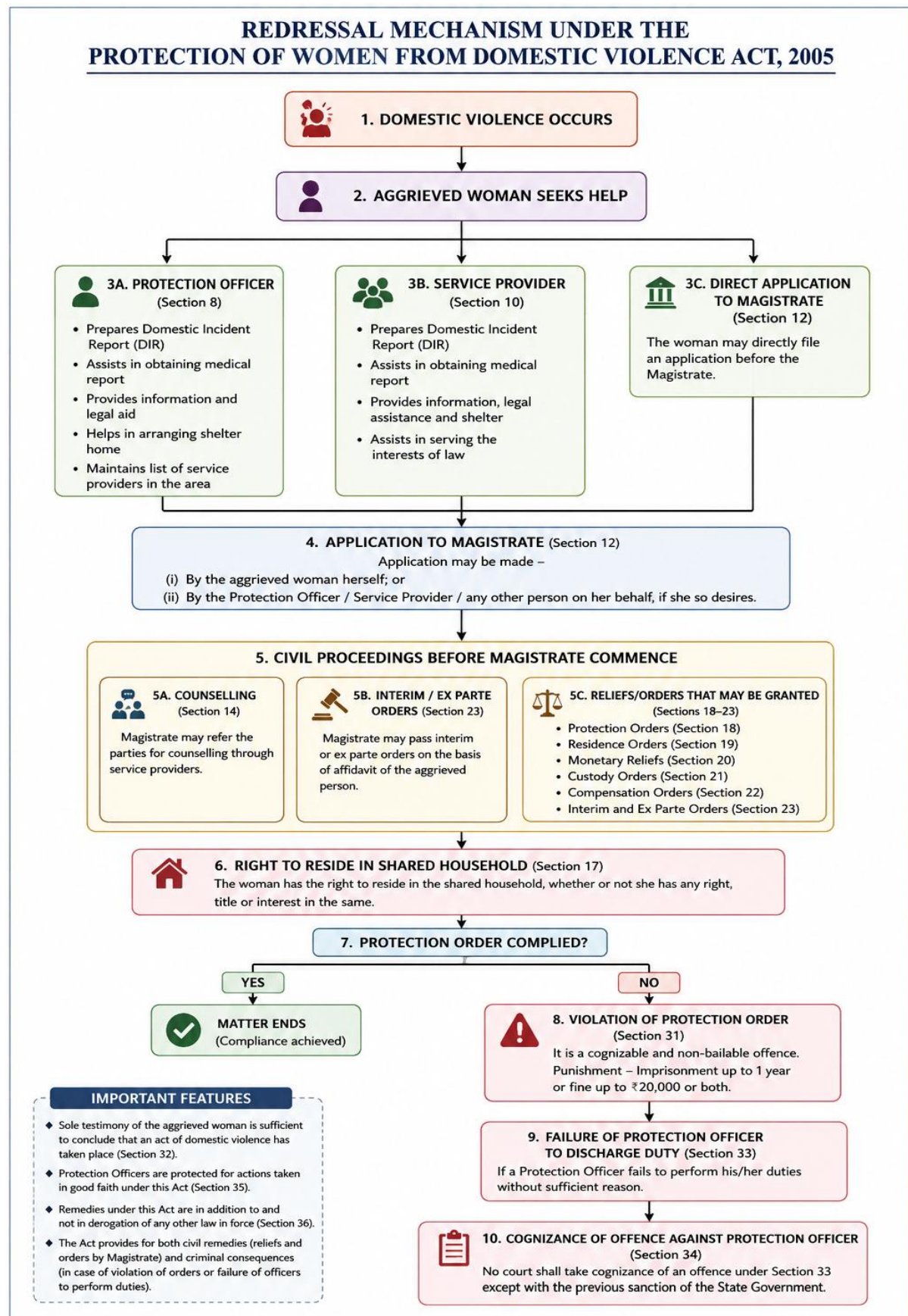
of the victim, and maintenance for the victim as well as her children, including an order under or an addition to an order of maintenance under section 125 of the CRPC.

- d) Custody Orders- Section 21 deals with custody orders in which the custody of the children of the victim may be granted to her temporarily.
- e) Compensation Orders- Section 22 deals with compensation orders for the injuries including mental torture and emotional distress caused by the acts of domestic violence committed by that respondent.

The Jurisdiction in the above act lies with the Judicial Magistrate of the First Class or the Metropolitan Magistrate, where the aggrieved person or the respondent resides, carries on business or is employed or where the cause of action arose as per Section 27. The act under Section 12, also mandates the Magistrate to dispose of the application filed within 60 days from the date of the first hearing, thus ensuring timely redressal. Any decision of the above court may be appealed in the Court of Session within 30 days of the date of order as per Section 29.

Thus, the Process of Redressal of Domestic Violence under the act can be traced as under-





Landmark Judgements

1) **Prabha Tyagi v. Kamlesh Devi¹⁰, 2022**

Facts

Appellant a widow had given application under Section 12 of Protection of Women from Domestic Violence Act, 2005, stating that her deceased husband's relatives treated her with mental cruelty, refused her right to her husband's property and right to live in the shared household property. Limited relief has been granted by the Trial Court, in part, compensation along with return of stridhan. The Appellate Court and High Court, however, set aside the finding stating that the absence of Domestic Incident Report (DIR) and the lack of subsisting domestic relationship frustrated her right to get the relief.

Issues

- 1) **Whether a Domestic Incident Report is required prior to obtaining relief under the DV Act?**
- 2) **Whether the complainant has to stay with the accused persons at the time of the alleged domestic violence?**
- 3) **Whether they need to have a subsisting domestic relationship at these stages of the application?**

Arguments

The appellant contended that DIR is mandatory when the application to the magistrate is filed by Protection Officer on the service provider under Section 12 and that the Act safeguards the women who have had a domestic relationship with an inevitability of shared household at some point. The respondents argued that the application without a DIR was null and void, and that the appellant did not cohabit with them after their marriage, thus questioning the existence of a shared household in the first place.

Decision

The Supreme Court granted the appeal, ruling that a DIR does not have to be a prerequisite to avail relief under Section 12 of the DV Act. It also stated that there was no requirement on an aggrieved woman to be living with the respondents at the time of the atrocity/at the time of application on condition that there existed a domestic relationship between the accused and the

¹⁰ *Prabha Tyagi v. Kamlesh Devi*, (2022) 8 SCC 90

victim at any point of time. The court also recognized that domestic violence may be verbal and emotional in nature and includes any ill-treatment that negatively impacts the mental health of the woman and **does not oppose** the decision of the trial court to grant a compensation of Rs 10,000 to the aggrieved person due to the mental torture caused to her by the respondents, including false allegations that her daughter is not her husband's child, terming the conception within 28 days of marriage unnatural. The Court reaffirmed the applicant's right to seek relief under the Act and reiterated the wide and remedial purpose of the legislation.

Section 85 of BNS- Punishment for Subjecting a Married Woman to Cruelty

~~Another stricter criminal provision dealing with marital violence specifically is Section 85 of~~ BNS which states that *whoever, being the husband or the relatives of the husband of a woman subject such women to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.* This offence is Cognizable if it is informed by a relative of the woman or a public servant and non-bailable in nature and can only be tried by Judicial Magistrate of the First Class, as per BNSS Schedule I, Table I. The difference between this provision and the DV Act is that the threshold for proving the violation is much lower in the DV act as it first entails a civil remedy before attaching a criminal proceeding. In any prosecution under Section 85 of BNS, the offender must fulfill the prerequisites of establishing Cruelty defined under Section 86 of BNS. Section 86 defines cruelty as any voluntary conduct that is likely to drive a woman to suicide or gravely injure or endanger her life, limb or health (whether mental or physical) and/or any harassment of a woman with an intent to coerce her or her relatives to submit any property or valuable security or upon their failure to do so. Thus, the statutory language is clear in defining a graver threshold to constitute an offence under this section. Even the smallest act with an intent to cause mental or physical harm to a woman may constitute a domestic violence but not every harassment is cruelty.

Landmark Judgements

1)U. Suvetha v. State by Inspector of Police & Anr.¹¹ , 2009

Facts

Appellant was accused as the second wife of the complainant's husband under section 498A IPC. She argued that she was not the husband or his relative for Section 498A.

¹¹ *U. Suvetha v. State by Inspector of Police & Anr.*, (2009) 6 SCC 757

Issue

Whether a woman who is allegedly the husband's second wife or paramour is included in the definition of “relative of the husband” as mentioned in Section 498A?

or

How should the word ‘relative’ be understood in absence of a clear definition in IPC?

Arguments

The appellant had contended that the term “relative” has a restrictive meaning and meant only one who is of blood, marriage or adoption, and thus cannot include a second wife or woman in an illicit relationship. The prosecution used a more liberal definition of “wife” and “relative” that had been used in some previous cases.

Decision

The Supreme Court ruled that the meaning of the term “relative of the husband” should be interpreted in its ordinary sense, and that the term has a “principal” meaning of blood, marriage or adoption. Illusory allegations of second wife or adultery by a woman will not be sufficient to make her the “relative” for Section 498A. So the Court limited the scope of those who may be prosecuted under the provision.

2)Manju Ram Kalita v. State of Assam¹², 2009

Facts

The appellant was convicted for committing physical and mental cruelty towards his wife and that he married a second wife in violation of rules of law under Sections 494 and 498A IPC. In 1993, complainant had abandoned the matrimonial home for a period while pregnant and had filed an FIR in 1997 accusing the husband of committing cruelty and bigamy. The Trial Court and the Appellate Court and the High Court affirmed the conviction under Section 498A.

Issue

Whether the evidence proved the "cruelty" for the purposes of Section 498A IPC including where the alleged acts were not found to be continuous or proximate to the complainant?

¹² *Manju Ram Kalita v. State of Assam*, (2009) 13 SCC 330

Arguments

The appellant contended that the prosecution failed to prove conduct satisfying the statutory ingredients of cruelty under Section 498A, as there was no evidence of persistent physical or mental torture after 1993. The State argued that the wife's testimony and the appellant's second marriage established mental cruelty.

Decision

The Supreme Court set aside the conviction under Section 498A while affirming the conviction for bigamy. The Court held that not every harassment or matrimonial discord amounts to "cruelty." Criminal cruelty requires willful and persistent conduct that is likely to drive a woman to commit suicide or cause grave injury or danger to her life, limb, or physical or mental health. Petty quarrels and ordinary wear and tear of married life do not satisfy this threshold. The Court emphasized that cruelty must be assessed in light of the statutory definition and ordinarily be continuous or persistent, or at least in close proximity to the filing of the complaint.

3)Kahkashan Kausar @ Sonam v. State of Bihar, 2022¹³

Facts

In 2017, the respondent-wife had claimed dowry harassment against her husband and in-laws. The Magistrate did not convict the in-laws and even took action against the husband under Sections 498A and 323 IPC. The wife went back to the marital home after reconciliation. She filed another FIR against her in-laws in 2019 claiming that she had been again demanded a dowry item – a car – and threatened that her pregnancy would be terminated.

Issue

Whether allegations against appellants (in-laws) in FIR were vague and omnibus and thus merited quashing of it; and whether subsequent FIR was an abuse of the criminal process?

Arguments

The arguments advanced by the appellants are that the FIR made vague, omnibus allegations without pinpointing any acts of any individual in-laws and had been filed with ulterior motive

¹³ *Kahkashan Kausar @ Sonam v. State of Bihar*, (2022) 6 SCC 599

of harassing the appellants. They also availed of the earlier complaint and invoked the principles enunciated in *Lalita Kumari v. Government of U.P.* The State and wife argued that the 2019 FIR related to fresh demand for dowry and their harassment in relation thereto as the husband had already undertaken in 2019, hence, a prima facie case to consider investigation.

Decision

The Supreme Court found that the allegations against the appellants were general, vague and omnibus and they were **not assigned any specific roles**. To be able to continue prosecution for such allegations would be an “abuse of the process of law”. Hence, the FIR was set aside against the appellants. The Court, however, observed that the later dowry demands were a fresh and independent cause of action and the 2019 FIR could not be considered as a repetition of the earlier complaint.

4) *Arnesh Kumar v. State of Bihar & Anr.*,¹⁴ 2014

Facts

Appellant's marriage was registered on 1 July 2007. His wife claimed that the appellant and his parents demanded dowry and that she was thrown out of the conjugal home for failure to pay dowry. The appellant denied the allegations and sought anticipatory bail which was denied in both Sessions Court and the Patna High Court. He was put on trial under Section 498A IPC and Section 4 Dowry Prohibition Act, 1961 before Supreme Court against denial of bail.

Issues

- (i) **Whether police could arrest a person for mere allegations of Section 498A IPC?**
- (ii) **Whether any safeguards were required to prevent misuse of Section 498A IPC?**
- (iii) **Whether the High Court was justified in refusing anticipatory bail?**

Arguments

In the instant appeal, the appellant had challenged the denial of anticipatory bail and argued that the criminal provisions have led him to the apprehension and arrest without any proper justification. He pointed out that there was a possibility of misusing Section 498A and remarked

¹⁴ *Arnesh Kumar v. State of Bihar & Anr.*, (2014) 8 SCC 273

that arrests might be made on mere allegations. The respondent-wife argued that the demand for dowry was made by the parents of the appellant and that she had been forced out of her matrimonial home, which made her fall within Section 498A IPC and Section 4 of Dowry Prohibition Act and therefore entitled to legal protection.

Decision

Supreme Court said that "arrest by police in response to an FIR was not necessarily justifiable, as it was being driven by mechanical and unnecessary arrests" under Section 498A. Before arresting, the police officers should be convinced that the arrest is warranted within the framework of Section 41 CrPC. The Court mandated that States issue instructions barring automatic arrest, established a checklist in Section 41(1)(b)(ii) and mandated police to document and provide reasons for an arrest to the Magistrate. It is the role of the Magistrate to scrutinise those reasons in his own right before authorising detention. A notice under Section 41A CrPC needs to be served where it is not necessary to arrest. Non-compliance may result in departmental actions and contempt proceedings, as may be action against Magistrates who authorise detention without providing reasons. The Court therefore granted the relief prayed for and reiterated that "individual liberty has to be weighed against the effective remedy to address the genuine grievance of matrimonial cruelty and dowry harassment".

5) Social Action Forum for Manav Adhikar v. Union of India¹⁵, 2018

Facts

The petitioner wanted a uniform mechanism for the registration of FIRs, arrest and bail of accused, investigation, prosecution, rehabilitation of section 498A IPC cases under Article 32 IPC. While pending, the Supreme Court ruled in the case of Rajesh Sharma v. State of U.P. and thus gave birth to the concept of Family Welfare Committees to discuss complaints against Section 498A.

Issues

- a) Whether the directions given in Rajesh Sharma are in line with the statutory provisions, especially the requirement for establishment of Family Welfare Committees?**
- b) Whether a settlement between the parties can be a ground to dispose the issue under Section 482 CRPC?**

¹⁵*Social Action Forum for Manav Adhikar v. Union of India*, (2018) 10 SCC 443

c) What may be the possible mechanisms to harmonize protection of women from cruelty with protection from misuse of the provisions?

Arguments

The petitioners had argued for the effective and immediate registration of FIRs and institutional measures to deal with the problem of matrimonial cruelty. The Amicus Curiae called for reconsideration of the case of Rajesh Sharma with emphasis on its Committee mechanism as it was without any statutory backing.

Decision

The Supreme Court has ruled that if the legislature has prescribed a procedure then there shall be no extra-statutory mechanisms like compulsory Family Welfare Committees. It ruled that the Committee directions were not allowed. The Court, however, gave the police guidelines to obey Lalita Kumari, D.K. Basu, Joginder Kumar and Arnesh Kumar to avoid arbitrary arrests and false or exaggerated claims. It also mandated strict training of investigating officers of Section 498A cases. Under Section 482 CrPC, settlements may be taken before the High Court.

6) Sushil Kumar Sharma v. Union of India¹⁶, 2005

Facts

The petitioner challenged **Section 498A IPC** under Article 32, alleging widespread misuse and false prosecutions, and sought its declaration as unconstitutional and action against persons who misused it.

Issues

Whether misuse of Section 498A renders it arbitrary, discriminatory, or unconstitutional under Article 14?

Arguments

The petitioner argued that false and frivolous complaints resulted in persecution rather than prosecution and therefore rendered Section 498A unconstitutional.

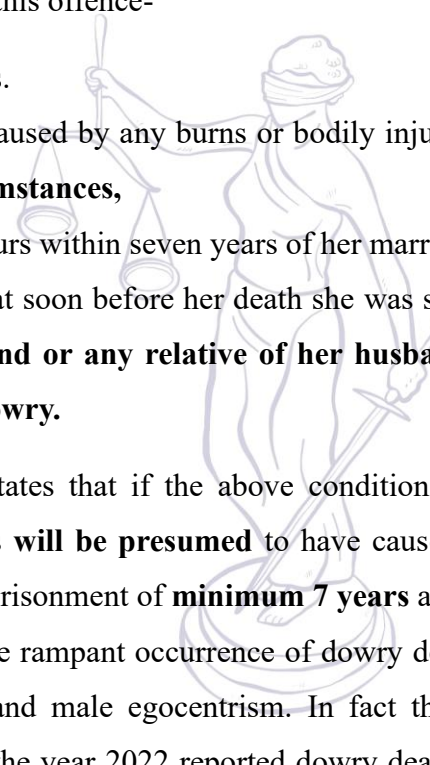
Decision

¹⁶*Sushil Kumar Sharma v. Union of India*, (2005) 6 SCC 281

The Supreme Court upheld Section 498A as **intra vires**. It held that the **possibility or actual misuse of a valid law does not invalidate the legislation**, nor does such misuse make the provision arbitrary or discriminatory under **Article 14**. The Court emphasized that it is the **action or misuse of the provision**, not the provision itself, that may be challenged and remedied. The Court noted that preventing misuse is ultimately a matter for the **legislature**, while courts must interpret and apply the law.

Provisions under Bhartiya Nyaya Sanhita, 2023

Section 80 of BNS /Section 304B of the IPC defines dowry death as an offense, it mentions 4 prerequisites to establish this offence-

- 
- i) A woman dies.
 - ii) Her death is caused by any burns or bodily injury or occurs otherwise than under **normal circumstances**,
 - iii) The death occurs within seven years of her marriage and
 - iv) 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**.

This provision clearly states that if the above conditions are fulfilled, then the woman's husband and his relatives **will be presumed** to have caused her death. The penalty for this offence starts with an imprisonment of **minimum 7 years** and it may extend to life. This strict provision is a result of the rampant occurrence of dowry deaths across the country fueled by the patriarchal mindset and male egocentrism. In fact the situation has not shown much improvement as even in the year 2022 reported dowry deaths in India amount to 6400 cases roughly.

Provisions in The Bhartiya Sakshya Adhiniyam, 2023

Section 118 of the Bhartiya Sakshya Adhiniyam /Section 113B of the Indian Evidence Act, 1872 deals with Presumption as to dowry death separately, pointing towards the determined legislative intent. It establishes that when the question arises as to whether a person has committed a dowry death or not, if it is shown through evidence that soon before her death such woman has been subjected by such person to cruelty or harassment for or in connection with any demand for dowry, the court is bound to presume that such person has caused the dowry death, which implies that he shall be punished accordingly.

Read together, both the sections form a strong framework and demonstrate the Deterrence theory of Punishment. With such strict punishment at door, it is expected that people shall refrain from committing any offence in connection with dowry in the first place as if the woman dies, even if they did not cause the death, the presumption in the case of dowry death will lead to a penal outcome.

Landmark Judgements

1)Kaliyaperumal & Anr. v. State of Tamil Nadu¹⁷, 2003

Facts

Devasena, the wife of Ashok Kumar and the daughter in law of appellant Kaliyaperumal, died by suicide allegedly connected with dowry-related harassment. The prosecution alleged that Kaliyaperumal and his wife, Muthulakshmi, had subjected Devasena to cruelty and harassment in connection with dowry demands. Both were consequently convicted under Sections 304-B and 498-A IPC. The High Court affirmed their convictions, although it reduced Kaliyaperumal's sentence under Section 304-B from nine to seven years. The appellants approached the Supreme Court challenging their convictions. The Supreme Court distinguished the evidence against the two appellants. While the evidence sufficiently established Kaliyaperumal's proximate connection with the dowry-related cruelty and the circumstances surrounding Devasena's death, evidence against Muthulakshmi is insufficient to establish the proximate cause. Although her involvement in cruelty was established sufficiently to sustain her conviction under Section 498-A, the evidence did not adequately establish the necessary connection between her conduct and the dowry death. Consequently, her conviction under Section 304-B was held untenable, while her conviction under Section 498-A was maintained.

Issues

- (i) Whether the prosecution must first establish the “ingredients of dowry death” before the statutory presumption under Section 113-B of the Evidence Act can arise?**
- (ii) Whether cruelty or harassment must be established before liability for dowry death can follow?**
- (iii) What constitutes cruelty and the phrase “soon before her death”?**

¹⁷ *Kaliyaperumal & Anr. v. State of Tamil Nadu*, AIR 2003 SC 3828

(iv) Whether Sections 304-B and 498-A operate independently of each other?

Arguments

The appellants challenged the sufficiency of evidence connecting them with the dowry-related cruelty and death. It was contended that the statutory requirements for Section 304-B had to be strictly established before the burden could shift to the accused. The prosecution maintained that the evidence established dowry-related cruelty and harassment sufficiently connected with the deceased's death, thereby attracting the statutory presumption.

Decision

The Supreme Court explained that a prosecution for dowry death follows a two-stage evidentiary process. First, the prosecution must establish the foundational ingredients of Section 304-B IPC: the woman's death must have occurred otherwise than under normal circumstances, within seven years of marriage, and she must have been subjected by her husband or his relatives to cruelty or harassment for, or in connection with, a dowry demand, soon before her death. Only after these ingredients are established does the presumption under Section 113-B Evidence Act arise, shifting the evidentiary burden to the accused to rebut it. Thus, the presumption cannot arise merely because a woman dies unnaturally within seven years of marriage. The court used the authority of *Satvir Singh v. State of Punjab* (2001) 8 SCC 633 to clarify that a "suicidal death" within seven years of marriage too falls under the ambit of Section 304-B IPC.

The Court further clarified that "soon before her death" does not prescribe a fixed period of time. It requires a proximate and live connection between the dowry-related cruelty or harassment and the death. A remote or stale incident, without such a connection, does not satisfy the requirement. The Court also emphasized that Sections 304-B and 498-A are distinct offences. Cruelty under Section 498-A may be established independently even where the ingredients of dowry death are not fully proved.

Under the present BNS framework, Section 80 BNS corresponds to dowry death, while Section 85 read with Section 86 BNS corresponds to cruelty by the husband or his relatives. Therefore, cruelty remains an important foundational element of Section 80 where the alleged cruelty is connected with a dowry demand, but conviction under Section 85/86 and Section 80 depends upon satisfaction of the respective statutory ingredients.

Implementation Challenges

The current legal framework to address the issue of dowry, domestic violence and dowry death is well balanced at the statutory level with balancing protection and misuse simultaneously through strict provisions, legal presumptions and shifted burden of proofs as well as ensuring thorough investigation before registration of a case, respectively. The amalgamation of civil and criminal remedies under the DV Act ensure that women have a recourse without worrying about estrangement of family and if they seek criminal recourse then till the two week long procedure of getting a detention permission under Section 85 of BNS is sought, Protection orders under DV act can act as a shield. This also ensures that no one is accused falsely as a meticulous arrest procedure as per section 41 of CRPC now Section 35 of BNSS, ensured by magisterial scrutiny ensures better investigation. The presumption under the Dowry death offence acts as a deterrent to dowry itself, and precedents ensure interpretation in the direction of the legislative intent to attain complete justice.

However, the implementation of the law at the ground level in a country as huge as India poses challenges as discussed below-

- 1) **Overburdening of Protection Officers under the DV Act** - Many states had not appointed Protection Officers in many districts of the country until in the case of *We the Women of India v. Union of India* (Writ Petition (Civil) No. 1156/2021), the Supreme Court recognized this administrative failure and directed all states to complete the designations within 6 weeks. Even so, the Protection Officers are also burdened with additional roles such as in the State Welfare Department, which means they cannot efficiently dispose of their domestic duties.
- 2) **Non-Appointment of Dowry Prohibition Officers by States-** Section 8B of the Dowry Prohibition Act 1961 uses the word “may” while talking about the appointment of Dowry Prohibition Officers by the state. Thus, states are not legally bound to appoint the officers.
- 3) **Under availability of Resources-** The estimated Financial requirement to effectively implement the DV Act stands at Rs 1,158 Crore, the official amount sanctioned is only Rs 946 Lakh. This leads to unavailability of enough shelter homes, service providers and counselling infrastructure, legal aid database. As far as the Dowry Prohibition Act is concerned, it does not establish an infrastructure as detailed in the first place. This shortfall is compounded by the common practice of assigning Protection Officers "additional charge" of the role alongside their substantive departmental duties, which

policy reviews have identified as a significant reason the post remains under resourced and inconsistently staffed across states.¹⁸

- 4) **Under Organization of Advertisement and Awareness Campaigns-** Section 11 of the DV Act places explicit boundations on the state governments to publicise its efforts in the favour of women and to spread awareness regarding their legal rights and remedies available to them. However, lack of budget prevents it all. The Dowry Prohibition Act does not talk about any awareness or education programs.
- 5) **No Legal requirement of Women Empowerment and Family Welfare Programs-** Since patriarchy is the root cause of these problems, women empowerment and family welfare programs will help change common perception and decrease offensive occurrences. However, no legal framework supports the same.
- 6) **Judicial Delays-** In domestic or family cases time is of utmost importance as timely relief prevents future mishappenings, ensures victims protection and facilitates faster victim rehabilitation. However, the average delay in solving DV cases extends to 2 years which is too long and often forces aggrieved persons to withdraw the cases. When the delay is too much, the interim orders also lap in that duration rendering the victim helpless.
- 7) **Lack of Police Training-** Lack of legal understanding and knowledge of latest rules and orders leads to frivolous arrests, false allegations and misuse. Lack of Codification and simplification of laws and constant changes due to new executive rules and judicial precedents requires equally frequent training programs country wide to ensure administrative sync. However, again lack of budget makes it impossible to implement, leading to executive issues.

Recommendations and Solutions

Various committees have been formed to address the issues in question and it was the recommendation of these committees which led to the formation of the current legal framework. For example Joint Committee of Parliament of on the Dowry Prohibition bill led to the enactment of the Dowry Prohibition Act, 1961 and Law Commission of India- 91st report directly influenced the insertion of section 304B IPC(Dowry Death) and Section 113A and 113B of the Indian Evidence Act. However, the latest recommendations by the National

¹⁸ Oxfam India, 'Implementing the PWDVA: Safeguarding Women from Domestic Violence' (Oxfam India Policy Brief No 14, October 2015) <https://www.oxfamindia.org/sites/default/files/PB-Implementing-PWDVA-Safeguarding-Women-from-Domestic-Violence-261015-ENG_0.pdf> accessed 15 August 2026.

Commission of Women, 2005 onwards have not been followed. As per the Press Information Bureau, Government of India, Ministry of Women and Child Development, Status of Recommended Amendments in Dowry Prohibition Act, 1961, released on 23rd July 2015, the following recommendations remain unattended after amendment proposed was dropped in 2014-

- i) Amendment to definition of Dowry
- ii) Provision for registration of lists of gifts received at the time of marriage
- iii) Provision for separate penalties for giving and taking of dowry.
- iv) Penalties for non-maintenance of lists of gifts received at the time of the marriage.
- v) Insertion of a new clause providing an opportunity to the woman to file a case at the place where the offence was committed or where she permanently/temporarily resides.
- vi) Protection officers appointed under the Protection of Women from Domestic Violence Act, 2005 to carry out the duties of the Dowry Prohibition Officers.

Any amendment to the definition of Dowry seems unnecessary as the current statute clearly defines dowry exchange between 2 parties and differentiates between customary gifts given to the bride and groom and other relatives. Whereas registration of gifts given at the time of dowry would only make the procedure unnecessarily complex, as the act already specifies the requirement of maintenance of list of gifts given. Prescribing a penalty for non-maintenance of such a list would only lead to a flood of criminal cases as it is not possible to maintain the list accurately in an Indian Marriage with thousands of guests and exchange going on for months. Giving dowry is as much of an offence as taking dowry thus, separate penalties are not needed.

However, there are a few amendments that in the author's opinion should be carried out-

- 1) The Vth amendment- i.e. clarifying that a woman can file a complaint at any place where cause of action arose or where she resides temporarily or permanently would resolve a significant question of law.
- 2) The VIth amendment- i.e. Protection officers under the DV Act should carry out the duties of Dowry Prohibition Officers too. It is well observed that cases of domestic violence are usually linked to dowry and even if not then both are domestic or family duties which can be performed by a single individual. This will not only save resources but also solve the issue of Non-appointment of Dowry Prohibition Officers by the States.

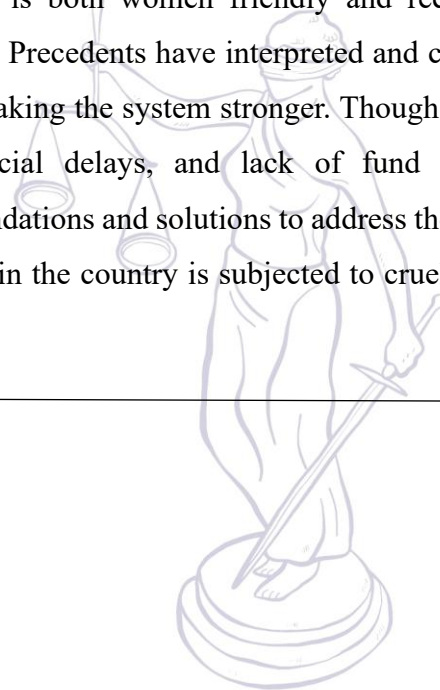
Apart from these, Various Recommendations to overcome the challenges discussed earlier from the author's perspective are as follows-

- 1) **Gender Neutral Education in Schools-** The idea of patriarchy stems from perceptions build at an early age. To address this, a gender-neutral curricula in schools will not only help girls realise their full potential but also teach children to respect each other's differences.
- 2) **Moral Persuasion through Campaigns-** Reaching out to the humanity of individuals through Nukkad Nataks, Art and Cultural references leaves lasting impact on minds of people.
- 3) **Awareness Campaigns-** Held by the government to dissipate knowledge about the rights and remedies that women are entitled to will help in better implementation of laws. Recent complaint data lends some support to this reasoning, as the National Commission for Women recorded domestic violence and dowry harassment among its most frequent complaint categories in 2025, a trend the Commission has attributed partly to growing awareness among women of the avenues available to report such conduct.¹⁹
- 4) **Women Empowerment and Family Welfare Programs-** Women Empowerment through reservation in job and education and realizing their domestic function as a social function is the key to counter gender-based oppression, as financially independent and educated women can speak about their rights without fear. Family Welfare Programs and counselling not only help the society realise the worth of a woman but also helps the woman realise her self-worth.
- 5) **Stricter timeline requirements to dispose off cases-** Although the law prescribes timelines such as under Section 12 of the DV Act, but there are loopholes, such as there is no timeline to deal with criminal cases under the act and there is no timeline to dispose of cases under Dowry Prohibition Act, 1961 altogether.
- 6) **Regular Organization of Training Sessions for the Police Officers-** To ensure that legal rules and compliances are well followed, which will also save time of the court in further legal processes.

¹⁹ Deccan Herald, 'Domestic Violence, Assault Among Most Reported Crimes to NCW' (Deccan Herald) <<https://www.deccanherald.com/india/domestic-violence-assault-among-most-reported-crimes-to-new-3523947>> accessed 15 August 2026.

Conclusion

Though age old problems, the world has taken cognizance of the issues impacting women and India is no exception. CEDAW is a comprehensive document that sets standards of humane and equal treatment of women all over the globe which has also acquired the force of Customary International Law with time, and wider recognition. The Indian Legal Response to its own women centric issues of Dowry, Dowry Death and Domestic Violence has build a strong framework which is both women friendly and recognizes the chances of misuse. Overtime, Supreme Court Precedents have interpreted and clarified Questions of Law arising out of written Statutes, making the system stronger. Though there are several implementation challenges such as judicial delays, and lack of fund allotments, this paper suggests comprehensive recommendations and solutions to address the same. We have a long way to go to ensure that no woman in the country is subjected to cruel treatment on the grounds of her gender.



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