Chapter XII

Analysis of crimes of rape on girl child below 10 years of age from five districts of North Maharashtra for the period from 1983 to 2004.

(A) Crime statistics from 1983 to 2004:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>% of Conviction on tried cases</th>
<th>% of Conviction on total registered cases</th>
<th>% of conviction in Maharashtra on tried cases</th>
<th>% of conviction in India on tried cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1984</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1985</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
<td>1986</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>100.00</td>
<td>50.00</td>
</tr>
<tr>
<td>1987</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>100.00</td>
<td>100.00</td>
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<tr>
<td>1988</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>100.00</td>
<td>100.00</td>
</tr>
<tr>
<td>1989</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1990</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>100.00</td>
<td>66.67</td>
</tr>
<tr>
<td>1991</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>50.00</td>
<td>33.33</td>
</tr>
<tr>
<td>1992</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>40.00</td>
<td>50.00</td>
</tr>
<tr>
<td>1993</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>100.00</td>
<td>80.00</td>
</tr>
<tr>
<td>1994</td>
<td>8</td>
<td>4</td>
<td>2</td>
<td>66.67</td>
<td>50.00</td>
</tr>
<tr>
<td>1995</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1996</td>
<td>6</td>
<td>1</td>
<td>3</td>
<td>25.00</td>
<td>16.67</td>
</tr>
<tr>
<td>1997</td>
<td>10</td>
<td>3</td>
<td>5</td>
<td>37.50</td>
<td>30.00</td>
</tr>
<tr>
<td>1998</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>1999</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>2000</td>
<td>7</td>
<td>4</td>
<td>1</td>
<td>80.00</td>
<td>57.14</td>
</tr>
<tr>
<td>2001</td>
<td>7</td>
<td>2</td>
<td>1</td>
<td>66.67</td>
<td>28.57</td>
</tr>
<tr>
<td>2002</td>
<td>8</td>
<td>1</td>
<td>1</td>
<td>50.00</td>
<td>12.50</td>
</tr>
<tr>
<td>2003</td>
<td>15</td>
<td>3</td>
<td>0</td>
<td>100.00</td>
<td>20.00</td>
</tr>
<tr>
<td>2004</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>100.00</td>
<td>11.11</td>
</tr>
<tr>
<td>Total</td>
<td>111</td>
<td>32</td>
<td>20</td>
<td>61.54</td>
<td>28.83</td>
</tr>
</tbody>
</table>

Analysis/Comments: During the last 22 years, there are 111 cases registered with conviction in 32 cases and acquittal in 20 cases. The victim-girl’s age varies even from 3 to 10 years.

The conviction rate on total tried cases is 61.54% whereas it is 28.83% on total registered cases. The conviction rate seems to be on higher side than
conviction rate in other rape cases, might be due to more sensitivity on the part of trying judges besides proper investigation of such cases.

The conviction rate of such cases in “Crimes in Maharashtra” and “Crimes in India” are not separately given in above Govt. publications.

B) The cases of rape on girl below 10 yrs. of age are shown on Bar-Diagram:

Comments / Analysis: The diagram shows the noticeable conviction which is much more higher than acquittal. It shows the highest conviction as compared to conviction in other cases.
c) The cases of rape on girl child below 10 yrs. of age are shown on Pie-diagram:

Disposal of cases by the Court
- Disposal: 47%
- Pending: 53%

Conviction Rate on total tried/disposal of cases by the Court
- Conviction: 62%
- Acquittal: 38%

Conviction Rate on Total registered cases
- Conviction: 22%
- Registered: 78%

It indicates:

i) Disposal of cases by the Court - 47%
ii) Pending cases - 53%
ii) Conviction rate on total tried cases by the Court - 62%
iv) Acquittal rate - 38%
v) Conviction rate on total registered cases - 22%
D) **Analysis of some cases of rape on girl childed below 10 yrs. of age:**

**On conviction**

**Ahmednagar District:**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Cr.NO. with section</th>
<th>Police station</th>
<th>Date of offence</th>
<th>Date of Reg.</th>
<th>Brief facts</th>
<th>Conviction (Quantum of punishment)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1</td>
<td>131/95 132/95 136</td>
<td>Jamkhed</td>
<td>17.3.95</td>
<td>17.3.95</td>
<td>Accused Vithal Dyandeo Thite, age 19 took the complainant's daughter, age 2 1/2 in the crop of sugarcane, raped her and killed by pressing her neck.</td>
<td>Suffer R.I. for life imprisonment on 1.7.96</td>
<td>Strong medical evidence and circumstance.</td>
</tr>
<tr>
<td>2/2</td>
<td>181/96 132/96 182</td>
<td>Rahata</td>
<td>12.7.96</td>
<td>13.7.96</td>
<td>Accused Anil Nivratti Mashke and Nivratti Govinda Mashke took relative's girl, age 6 yrs. on their motorcycle from Dadbudruk to Rahata and raped her. Afterward they murdered her and put the dead body in the sack and this sack was thrown in the area of Kantinath temple.</td>
<td>Suffer R.I. for 7 yrs.</td>
<td>The prosecution has proved all evidence and circumstance and sufficient medical evidence.</td>
</tr>
<tr>
<td>4/4</td>
<td>149/93 136(2)</td>
<td>Akole</td>
<td>26.5.93</td>
<td>26.5.93</td>
<td>The victim girl, age 10 yrs. was sleeping in her house, accused Haribhau Laxman Bhusari, age 40, assured the girl to give the glass bottle and called her to his stall and raped her.</td>
<td>Suffer R.I. for 7 yrs. and fine Rs. 200/-</td>
<td>Perfect evidence was proved.</td>
</tr>
<tr>
<td>5/5</td>
<td>144/2000 376(1)</td>
<td>Akole</td>
<td>16.6.2000</td>
<td>16.6.2000</td>
<td>When victim age 8 yrs. was playing in front of her house, accused Haribhau Laxman Bhusari, age 40, assured the girl to give the glass bottle and called her to his stall and raped her.</td>
<td>Suffer R.I. for 10 yrs. and fine Rs. 3000/-</td>
<td>Medical &amp; other evidence proved.</td>
</tr>
</tbody>
</table>
### Jalgaon: (On conviction: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>C.R.No With Section</th>
<th>Police Station</th>
<th>Date of Offence</th>
<th>Date of Reg.</th>
<th>Brief Facts</th>
<th>Conviction / Acquittal (Quantum of imprisonment)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/1</td>
<td>147/94 u/s 376, 504 IPC</td>
<td>Nashirabad</td>
<td>19.5.94</td>
<td>19.5.94</td>
<td>Accused forcibly raped complainant’s 7 yrs. old daughter,</td>
<td>Convicted 7 yrs. imprisonment &amp; Rs.2000/- fine.</td>
<td>Medical Evidence, Chemical Analyser Evidence &amp; Physical evidence proved</td>
</tr>
<tr>
<td>7/2</td>
<td></td>
<td>Dharangaon</td>
<td>26.8.03</td>
<td>27.8.03</td>
<td>Accused threatened complaints 10 yrs. old daughter at the point of knife and raped her.</td>
<td>Convicted 42 months imprisonment. (3 1/2 yrs.)</td>
<td>Medical and other evidence proved.</td>
</tr>
<tr>
<td>8/3</td>
<td></td>
<td>Dharangaon</td>
<td>25.10.04</td>
<td>27.10.04</td>
<td>Accused threatened complaint’s 10 yrs. old daughter and raped her.</td>
<td>Convicted 7 yrs. imprisonment and Rs. 500/- fine.</td>
<td>Medical Evidence Chemical Analyser Evidence Physical evidence collected by I.O.</td>
</tr>
</tbody>
</table>

### Dhule: (On conviction: Cases of rape on girl under 10 yrs. of age)

<table>
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<tr>
<th>Sr.No</th>
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<th>Date of Reg.</th>
<th>Brief Facts</th>
<th>Conviction (Quantum of imprisonment)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/1</td>
<td>137/93 u/s 376 IPC</td>
<td>Shirpur</td>
<td>15.8.93</td>
<td>16.8.93</td>
<td>While complainant girl age 9 yrs. was grazing buffalo along with the accused, he took her to little more distance to get some grass &amp; raped her there.</td>
<td>R.I. for 5 yrs. &amp; fine Rs.1000/-</td>
<td>Prosecution case was proved.</td>
</tr>
<tr>
<td>10/2</td>
<td>151/02 u/s 376(1) IPC</td>
<td>Azadnagar</td>
<td>6.11.02</td>
<td>6.11.02</td>
<td>Accused No. 1 attempted to rape a minor girl age 7 yrs., threatend the mother of the victim &amp; witness to file a false report against them. The accused is also charged with u/s 354 IPC accused 2 to 4 were charged with u/s 323, 34 IPC for voluntary causing hurt to the complainant &amp; witness.</td>
<td>R.I. for 10 yrs. &amp; fine Rs. 2000/- u/s 376&amp;511 IPC  R.I. for 2 yrs. &amp; fine Rs. 1000/- u/s 354 IPC</td>
<td>Prosecution has proved the case due to proper evidence.</td>
</tr>
</tbody>
</table>
### Nandurbar: (On conviction: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Cr. No. with section</th>
<th>Police Station</th>
<th>Date of Offence</th>
<th>Date of Reg.</th>
<th>Brief Fact</th>
<th>Conviction (Quantum of imprisonment)</th>
<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1</td>
<td>61/88 u/s 376 IPC</td>
<td>Nandurbar Taluka</td>
<td>13.8.88</td>
<td>18.8.88</td>
<td>The accused was a sweeper in the Govt. Ashram Shala Wagale, Tal. Nandurbar. The victim age of 9 yrs. was studying in 3rd standard in the said school. On 13.8.88 when the victim was playing with her girl friend in a varanda of the school, her friend Laxmi went away for a while to drink water and the victim was all alone. The accused hold her hand and took her to bathroom, closed the door of the bathroom and raped her and also threatened to beat her up. Hence the complaint was lodged very late i.e. after 5 days.</td>
<td>R.I. for 3 yrs. and pay fine of Rs. 750/- out of this Rs. 500/- for compensatio to prosecutrix.</td>
<td>The complaint was lodged almost after five days, but the delay considered justified in the peculiar circumstances of the case. The evidence of victim, other witnesses and mainly medical evidence and the other circumstantial evidence was sufficient to prove the guilt of the accused beyond reasonable doubt. The prosecution succeeded in proving the guilt of the accused.</td>
</tr>
</tbody>
</table>

### Nashik City: (On conviction: Cases of Rape on under 10 yrs. girl)

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Cr.NO. with section</th>
<th>Police station</th>
<th>Date of offence</th>
<th>Date of Registration</th>
<th>Brief facts</th>
<th>Conviction (Quantum of imprisonment)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>

------Nil------
Nashik Rural: (On conviction: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>C.R.No. with section</th>
<th>Police Station</th>
<th>Date of offence</th>
<th>Date of Reg.</th>
<th>Brief facts</th>
<th>Conviction (Quantum of imprisonment)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/1</td>
<td>21/89 u/s 376 IPC</td>
<td>Nandgaon</td>
<td>26.2.89</td>
<td>3.3.89</td>
<td>Accused took complainant's daughter age-7 yrs. in farm and raped.</td>
<td>5 yrs. R.I.</td>
<td>Complainant's evidence proved in Court alongwith medical evidence and C.A. report.</td>
</tr>
<tr>
<td>13/2</td>
<td>96/92 u/s 376,363 366(A) IPC</td>
<td>Azadnagar</td>
<td>21.1.97</td>
<td>21.1.97</td>
<td>Accused kidnapped complainant's daughter age 8 by allurement to her of giving money, and raped her.</td>
<td>10 yrs. R.I.,</td>
<td>Complainant's witness proved in Court alongwith medical evidence and C.A. report.</td>
</tr>
<tr>
<td>14/3</td>
<td>7/97 u/s 376, 363 IPC</td>
<td>Azadnagar</td>
<td>21.1.97</td>
<td>21.1.97</td>
<td>Accused by alluring to complainant's daughter age 7 yrs., took away and raped her.</td>
<td>7 yrs. R.I., Rs.1000/- fine.</td>
<td>Complainant's witness proved in Court alongwith medical evidence and C.A. report.</td>
</tr>
<tr>
<td>15/4</td>
<td>7/01, u/s 376,302 201 IPC</td>
<td>Dindori</td>
<td>7.8.01 to 9.8.01</td>
<td>9.8.2001</td>
<td>Accused took complainant's daughter age-6 yrs. to a farm and raped her and by strangulating her neck murdered her and threw her body in a well</td>
<td>Life imprisonm ent.</td>
<td>Complainant's witness proved in Court alongwith medical evidence and C.A. report alongwith confession of accused.</td>
</tr>
<tr>
<td>16/5</td>
<td>70/03 u/s 376 IPC</td>
<td>Igatpuri</td>
<td>29.6.03</td>
<td>29.6.03</td>
<td>Accused raped complainant's daughter age 3 ½ yrs. when she was alone in the house.</td>
<td>18 months</td>
<td>Complainant's witness proved in Court alongwith medical evidence and C.A. report.</td>
</tr>
</tbody>
</table>

**Researcher's Analysis / comments:** Out of 16 cases, 3 cases are of rape with murder wherein the punishment of life imprisonment was awarded in two cases, and in 3rd case, the accused was punished by 7 years imprisonment for rape and acquitted for murder.

Only in 4 cases out of remaining 13 cases, i.e. in 31% cases, ten years imprisonment has been awarded and 7 years imprisonment in six cases which is the minimum mandatory punishment in rape u/s 376 (1) IPC.

However, in 4 cases i.e. in 25% cases, the punishment of imprisonment of 3 years to 5 years have been awarded which is less than the minimum mandatory punishment.
(B) Analysis of some cases of rape on girl of 10 yrs. of age.

On Acquittal

Ahmednagar District: (On Acquittal: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Cr.NO. with section</th>
<th>Police station</th>
<th>Date of offence</th>
<th>Date of Reg.</th>
<th>Brief facts</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1</td>
<td>1268/97 IPC 376, 504</td>
<td>Shirampur City</td>
<td>10.10.97</td>
<td>10.10.97</td>
<td>Accused Jagannath Uttam age 35 yrs. called a girl age 8 yrs. &amp; asked her to bring tobacco, when she came with the tobacco in the house of accused, he closed the door of his house and threatened her to kill and raped her.</td>
<td>Hostile witnesses</td>
</tr>
<tr>
<td>2/2</td>
<td>185/98 IPC 376, 511</td>
<td>Jankhed</td>
<td>9.8.98</td>
<td>9.8.98</td>
<td>One girl age 10 yrs. was alone in her house, that time accused Vishnu Arun Mohalkar Age 20 yrs. came to her house, pulled her nicker and tried to rape her.</td>
<td>Insufficient evidence.</td>
</tr>
<tr>
<td>3/3</td>
<td>111/2000 IPC 376</td>
<td>Akole</td>
<td>1.3.2000</td>
<td>1.3.2000</td>
<td>Accused Dyandeo Maruti Gaikar Age 19 yrs. showed the bribe of chocolate to one girl age 5 yrs and took her to his house and raped her.</td>
<td>Medical evidence not proved</td>
</tr>
<tr>
<td>4/4</td>
<td>176/2000 IPC 376, 511</td>
<td>Akole</td>
<td>2.11.2000</td>
<td>2.11.2000</td>
<td>Accused Santosh Mahadav Gosavi Age 22 yrs called one girl age 6 yrs to give her money to purchase sweets and took her with him and tried to rape on her by removing her cloths.</td>
<td>Witnesses hostile</td>
</tr>
<tr>
<td>5/5</td>
<td>148/97</td>
<td>Sangannner City</td>
<td>10.2.97</td>
<td>10.2.97</td>
<td>Accused Rajendra Somnath Thorat Age 22 yrs. caught one girl age 10 yrs, laid her down on the ground and raped her.</td>
<td>Medical evidence not proved</td>
</tr>
</tbody>
</table>

Nashik City: (On Acquittal: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Cr.NO. with section</th>
<th>Police station</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>There was not even a single acquittal case of rape on girl-chiled.</td>
<td></td>
</tr>
</tbody>
</table>
**Jalgaon District:** (On Acquittal : Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>C.R.No With Section</th>
<th>Police Station</th>
<th>Date of Offence</th>
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<th>Remark</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/1</td>
<td>92/99 u/s 376 &amp; Atrocities Act</td>
<td>Parola</td>
<td>8.7.99</td>
<td>8.7.99</td>
<td>Accused called two girls aged 6 yrs &amp; raped both the girl</td>
<td>Acquittal due to insufficient evidence.</td>
</tr>
<tr>
<td>7/2</td>
<td>122/99 u/s 376 IPC</td>
<td>Parola</td>
<td>2.9.99</td>
<td>2.9.99</td>
<td>One girl age 7 yrs. went to the bank of the river Bori, where accused forcibly raped her.</td>
<td>Acquittal due to poor evidence.</td>
</tr>
<tr>
<td>8/3</td>
<td></td>
<td>Kasoda</td>
<td>3.5.2001</td>
<td>3.5.2001</td>
<td>Complainant's daughter age 8 yrs. was coming from her grand mother, Accused obstructed her, brought her in his room and raped her.</td>
<td>Acquittal due to poor evidence.</td>
</tr>
</tbody>
</table>

**Dhule District:** (On Acquittal : Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Cr. No with section</th>
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</tr>
</thead>
<tbody>
<tr>
<td>9/1</td>
<td>23/94 u/s 376 IPC</td>
<td>Pimpalner</td>
<td>16.4.94</td>
<td>19.4.94</td>
<td>The 19 yrs. old accused took 6 yrs. old victim girl to a near by field in the absence of her father. He promised to buy Chappal for her. The accused removed her underwear &amp; raped her and there after, he left her at S.T.Bus stand and escaped.</td>
<td>Acquittal. The victim failed to identify the accused. C.A. report is negative. Accused was arrested on suspicion and no strong evidence against accused. Accused is acquitted due to benefit of doubt.</td>
</tr>
</tbody>
</table>
**Nashik Rural District:** (On Acquittal: Cases of rape on girl under 10 yrs. of age)

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>10/1</td>
<td>107/85 IPC 376, 363, 366 &amp; 342</td>
<td>Jaikhet</td>
<td>8.9.85</td>
<td>11.9.85</td>
<td>Accused took away complainant’s daughter age 6 yrs. on a bicycle and raped her.</td>
<td>Acquittal due to differences in evidence in Court. Difference of actual occurrence and what was mentioned in the complaint.</td>
</tr>
<tr>
<td>11/2</td>
<td>16/94 u/s 376 IPC</td>
<td>Lasalgaon</td>
<td>6.2.94</td>
<td>6.2.94</td>
<td>Accused took away complainant’s daughter age 7 yrs. and raped her.</td>
<td>Acquittal due to hostile witnesses.</td>
</tr>
<tr>
<td>12/3</td>
<td>59/97 u/s 376 IPC</td>
<td>Kawai</td>
<td>10.10.97</td>
<td>10.10.97</td>
<td>Accused called complainant’s daughter age 10 yrs. to his house and raped her.</td>
<td>Acquittal due to hostile witnesses and differences in evidence.</td>
</tr>
</tbody>
</table>

**Nandurbar District:** (On Acquittal: Cases of rape on girl under 10 yrs. of age)

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Cr. No. with section</th>
<th>Police Station</th>
<th>Date Of Offence</th>
<th>Date of Reg.</th>
<th>Brief Fact</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>13/1</td>
<td>117/2000 Shahada</td>
<td>6.8.2000</td>
<td>6.8.2000</td>
<td>The accused Toleya Nabu Dhil is the step father of the victim aged 8 yrs. On 6.8.2000 at 6.8.2000 at , accused and Victim had been to a field at village Maloni for taking grass for their she-goats. In the field, the accused took out clothes from the person of the victim and raped her.</td>
<td>On 26.5.01 the accused was acquitted. The complainant, the victim and the witnesses turned hostile and they did not support the prosecution case on any count. Medical evidence was insufficient to prove guilt of the accuse. Medical officer was not firm whether sexual intercourse had taken place or not.</td>
<td></td>
</tr>
<tr>
<td>14/2</td>
<td>62/2002, w/s 376 IPC Taloda</td>
<td>8.8.2002</td>
<td>8.8.2002</td>
<td>On 8.8.2002 at about 07.00 pm, the accused took the victim age of 4 yrs to the backside of the complainant's house in the banana garden and raped her.</td>
<td>On 25.2.2003 the accused was acquitted. The complainant, his wife and other witnesses turned hostile and did not support the case. Habitual pancha's signature was obtained on the seizer panchanama. Medical evidence and chemical analysis report were not supporting the prosecution case.</td>
<td></td>
</tr>
</tbody>
</table>

**Researcher's Analysis / comments:** Out of 14 cases of acquittal, witnesses had turned hostile in six cases whereas the other cases have been acquitted due to insufficient evidence to establish the guilt of rape against the accused.

* * * * *
Part – V

Chapter – XII

Analysis of primary data i.e. information & suggestions obtained from respondents through Questionnaires

Collection of Primary data through questionnaires:

The researcher also intended to do the field work of collecting primary data through questionnaires from the different target groups of public to critically examine the impact of laws on the society, particularly in respect of protection to women.

Accordingly, for collecting information and suggestions, the following three different groups are selected, being the most relevant as they are directly related with the execution and filling the impact of the legal provisions for the protection of women:

1. Police officers: The Police officers are divided into following two groups:
   
   
   **Field – level Police officers** (Rank - Police Inspector/Asst. P.I. & P.S.I.)

2. Legal Experts:
   
   **The Judges** (Rank - Sessions Judges & J.M.F.C.)
   
   **Public Prosecutors**
   
   **Practising Advocates**

3. Women and Social Activists including N.G.Os. working for women.

Total 1000 questionnaires were distributed and 742 questionnaires were obtained from the respondents and tabulated as per following details:

<table>
<thead>
<tr>
<th>Question</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists / N.G.Os.</th>
<th>Remarks / Combined views</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>193</td>
<td>40</td>
<td>29</td>
<td>80</td>
<td>142</td>
</tr>
</tbody>
</table>

*Yes* indicate positive & *No* indicate negative replies.
Analysis of information, obtained through Questionnaires

On the following topics:

A) On provisions dealing with Cruelty to woman U/S 498 (A) IPC.

B) On provisions dealing with abatement to commit suicide due to ill-treatment (u/s 498 A/ r/w 306 IPC).

C) On provisions, dealing with Dowry Death u/s 304 (B) IPC.


E) On provisions, dealing with Rape and Custodial Rape / Gang Rape u/s 376 (1) & (2) IPC.

F) Soliciting views on other relevant matters: whether trial of cases by women Judges.

G) Pertaining to other offences of sexual intercourse u/s 376 (B), 376 (C) & 376(D) IPC when sexual intercourse due to consent does not amount to rape u/s 376 (1) IPC.

H) Soliciting views on other relevant matters.

I) Soliciting views on basic principles of our legal "Accusatorial System vis-à-vis Inquisitorial System."
(A) On provisions dealing with Cruelty to woman U/S 498 (A) IPC.

<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Supervisory P. Officers</th>
<th>Judges</th>
<th>Public Prosecutors</th>
<th>Lawyers</th>
<th>Women Activists / N.G.Os.</th>
<th>Remarks/Combined views</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Being Police Officer/ Legal experts/ women activists, do you think that the legal provision for dealing with ill treatment to woman v/s 498(A) IPC is sufficiently strong enough to Protect Woman?</td>
<td>193 Yes</td>
<td>40 No</td>
<td>29 Yes</td>
<td>80 No</td>
<td>142 Yes</td>
<td>258 No</td>
<td>742 Yes</td>
</tr>
<tr>
<td></td>
<td>163 30 31 09</td>
<td>25 04 65 15</td>
<td>94 48 173 85</td>
<td>551 191</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>84% 16% 78% 22%</td>
<td>86% 14% 81% 19%</td>
<td>66% 34% 67% 33%</td>
<td>74% 26%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Do you consider that these provisions are used effectively?</td>
<td>164 29 36 04</td>
<td>20 09 58 22</td>
<td>75 67 158 100</td>
<td>511 231</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>85% 15% 90% 10%</td>
<td>67% 33% 73% 27%</td>
<td>53% 47% 61% 39%</td>
<td>69% 31%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Do you consider that these provisions are being used correctly?</td>
<td>148 45 38 02</td>
<td>16 13 52 28</td>
<td>57 85 148 110</td>
<td>459 283</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>77% 23% 98% 05%</td>
<td>55% 45% 65% 35%</td>
<td>40% 60% 57% 43%</td>
<td>62% 38%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Do you consider that these provisions are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?</td>
<td>160 13 39 01</td>
<td>28 01 70 10</td>
<td>134 08 220 38</td>
<td>671 71</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>93% 7% 98% 02%</td>
<td>97% 3% 88% 12%</td>
<td>94% 6% 85% 15%</td>
<td>90% 10%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, by whom?</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4 (To some extent)</td>
<td>-</td>
<td>14 (To some extent)</td>
<td>- 22 (Out of 18 To some extent)</td>
</tr>
<tr>
<td>i) Police</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>14% - -</td>
<td>-</td>
<td>- 2% - 3%</td>
</tr>
<tr>
<td>ii) Close relatives (Father, Mother, Brother of a married woman.)</td>
<td>193 - 40 -</td>
<td>25 - 80 -</td>
<td>128 - 254</td>
<td>- 720</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>100% - 100% -</td>
<td>86% - 100% -</td>
<td>90% - 98%</td>
<td>- 97%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Do you think that the general publics are well aware of these provisions?</td>
<td>144 49 32 08</td>
<td>18 11 56 24</td>
<td>64 78 143 115</td>
<td>457 285</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>75% 25% 80% 20%</td>
<td>62% 38% 70% 30%</td>
<td>45% 55% 55% 45%</td>
<td>62% 38%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note- Blue for positive and Red for negative replies.
<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists / N.G.Os.</th>
<th>Remarks/Combined views</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Field Officer (PSI / API / PI)</td>
<td>Supervisory P. Officers (Addl.DGP / IGP / DIGP / SP &amp; Dy.S.P)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
<tr>
<td>6.</td>
<td>Do you consider that the cases u/s 498 (A) IPC should be brought under the preview of summary disposal through &quot;Lok-Adalat&quot;, the effective way of disposal of cases with the consent of both parties with the basic object of reconciliation / uniting them together again?</td>
<td>193</td>
<td>40</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>7.</td>
<td>Do you consider that reconciliation should be tried first through Social Security Cell / Woman N.G.Os. prior to registration of offence u/s 498 (A) IPC? If yes,</td>
<td>179</td>
<td>14</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>If yes, then do you think that the reconciliation should be recognized legally by the judiciary?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>Do your suggest any amendment in law to recognize the reconciliation prior to registration of F.I.R. u/s 3 &amp; 4 of Prohibition of Dowry Act., as no such provision exists in the law presently.</td>
<td>119</td>
<td>74</td>
<td>24</td>
</tr>
</tbody>
</table>
A. Analysis/Comments

On provisions dealing with cruelty to women u/s 498(A) I.P.C.

1) **On the question at Sr.No.1 :** whether the present provision u/s 498 (A) IPC is sufficiently strong enough to protect women from cruelty to them:

i) The substantial replies received from Police Officers, Legal Experts & Woman activists are positive i.e. 74% (551 out of 742). The Police Officers both from field (84%) and Supervisory (78%) level have given their positive replies. The Legal Experts have also given positive replies i.e Judges-86%, Public Prosecutors-81% and Lawyers 66% If we consider the views of the women activists, their replies from majority are also positive though the majority seems to be thin.

ii) If the views of the negative replies are considered, the number is also substantial i.e 26% (191 out of 742) and particularly, the woman activists and practising lawyers are on the much more higher side i.e Lawyers- 34% and women activists-33% who opined that the present provisions u/s 498 (A) I.P.C. are not sufficiently strong enough to protect the women from cruelty.

iii) **The view of researcher:** Considering both the positive and negative views, received from all the three concerned groups, the researcher feels that the present provision u/s 498 (A) I.P.C. is sufficiently strong enough to protect the women from cruelty so far as maximum punishment i.e. upto 3 years imprisonment is concerned but it requires some amendment, providing for minimum mandatory punishment of at least 1 year to make it more deterrent for prevention of atrocities on women.

iv) **On suggestions:** The researcher feels that the following suggestions / views out of many suggestions, received from three different groups need special considerations to deal with the cases of cruelty to women:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. India has male-dominated society. This provision is cognizable and non-bailable. If once the husband goes to jail, it is the end of married life to the women. The provisions must be such that they don't break the marriage but to bring in counseling to the marrying parties.
ii. Despite this provision sufferings of woman continues unless married woman are provided financial support, they will not be able to come out against the perpetrators of atrocities.

**From Field officers (PSI /API/PI)**

i. After marriage woman should have equal share in her husband property either self acquired or ancestral.

ii. The legal provisions should be amended. There should be serious punishment under this section.

iii. The punishment at present for 498(A) is less. It should be minimum 5 to 6 years imprisonment.

iv. Because it is not sufficient to take severe action, some stringent law must be there, which is sufficient to create fear in the mind of in-laws. (Psychological fear).

**(B) From Legal Experts:**

**Judges:**

i. To make the provisions sufficiently strong enough, specially trained officers need to be deputed for dealing with investigation of such offences.

ii. Women from different status of society should be organized together & also should be made aware of their legal rights.

**From Public Prosecutors:**

i. Speedy arrest to accused persons may be done and the burden of proof may be laid on the accused.

ii. The complaints u/s 498(A) are not taken seriously, therefore investigation should be carried out properly and sensitively.

iii. Provision for deterrent punishment to accused, if offence is proved.

**From Advocates:**

i. For such matters eyewitnesses are required legally and it is not at all expected to have eyewitness on her side from local vicinity of husband where she is alone.

ii. That the women from India must be strong and bold enough mentally, physically and socially to resist and raise voice against ill treatment and harassment.

iii. Not strong, because the accused person gets bail easily.

iv. Counseling by lady Police Officer may be done of the women being ill-treated prior to filing FIR.

v. The concerned persons involved in cruelty must be warned prior to filing the FIR.
(C) From women activists including N.G.Os:

i. Under the garb of 498(A) IPC many women are giving mental torture to in-laws.

ii. The married woman should get her right and share in property, owned by husband and also the ancestral property.

iii. The opinion of the victim should be taken into consideration and not of the relatives.

iv. The punishment may be extended, the accused should not be released on bail by the Magistrate.

v. The accused generally gets the bail within a day or so. The accused should be given into police custody for at least three to four days, so that the impact of the offence be felt and recovery of articles be made if any.

vi. Govt. should give more right to Dakshata Samiti for dealing with problems of ill treatment to women. There should be time limit for the disposal by court.

2) On the question at Sr.No.2- Whether these provisions are being used effectively:

i) If the positive and negative replies are considered, out of 742 persons from three different groups, 511 persons have given positive replies, which comes to 69%. The maximum positive replies are from Supervisory Police Officers i.e. 90% which is followed by field-level Police Officers i.e. 85%, then by Public prosecutors i.e. 73%, then by Judges i.e. 67% and women activists to the extent of 61%. However the positive replies from practicing lawyers are only to the extent of 53%.

ii) The negative replies from practicing lawyers are 47% and women activists to the extent of 39% which indicates that there are large number of persons who feel that these provisions are not being used effectively. Though the negative views form the minority opinion still the negative views are supported by the perception of general public that the women are being ill-treated by the husband and their in-laws.

iii) Had these provisions been used effectively, there would not have been increasing trend of cruelty to women. Perhaps, this could be the inference from so many negative replies, received.

iv) On suggestions: The researcher feels that the following suggestions / views out of many suggestions, received need special considerations:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Of late many avenues are being tried. Such as "Mahila Takrar Nivaran Kendra", special cell for women and children exclusive by looking into domestic disputes and try to bring the parties closer rather than allowing the situation to worsen.

ii. But the provisions are not much of a deterrent.
Field officers (PSI /API/PI)

i. There is a need to make amendment particular in the provision of bail. Before releasing accused on bail, court should call the say of police before granting bail to the accused.

ii. When F.I.R. is registered, unnecessary additional names of accused are added besides actual persons who are related in crime such as Brother-in-law, Sister-in-law. This practice should be avoided.

iii. In many cases the police seems to be reluctant in registration of offences and tries to convince the victim complainant lady to get her grievances compromised through social security cell.

(B) From Legal Experts:

Judges:

i. Stop its misuse by proper investigation and stop involvement of other relatives of husband just for harassment.

ii. The offence should be made sessions trail and it should provide for payment of interim maintenance to complainant till disposal of the case.

iii. Avoid making unnecessary persons accused like old aged mother in-law, married sister in-law and their husbands.

From Public Prosecutors:

i. The reason behind not lodging complaint by lady who suffers is due to lack of parental support, insecurity and financial-moral support.

ii. Considering the ratio between the number of victims and the number of cases registered under the section, legal awareness is required through "Legal Awareness Camp".

iii. Wide powers must be given to the I.O. regarding proper and deep investigation as well as punishment must be enhanced from 3 years to 7 yrs.

iv. Special woman police officer should be appointed to investigate the matter. Some other presumption must be in favour of prosecution.

From Advocates:

i. There should be amendment in punishment and in Act.

ii. Because of poor Police investigation, accused are acquitted.

iii. Investigation shall be carried out by police officer at least of the rank of PI and Police should be sufficiently trained to deal with the cases of woman.
iv. Before registering crime, police machinery must thoroughly investigate the matter because in these matter, all family members and relatives are implicated.

v. The investigating authority must seize all the ornaments "stridhan"of the victim lady from the accused.

(C) From women activists including N.G.Os.:

i. The police officer who receives such complaints should investigate into matter correctly and truly for finding out the truthfulness of complaint. Because of false complaints, some times real culprits escape

ii. Misuse of this provision is also one of the factors of its failure sometimes. Impartial investigations by Police are necessary.

iii. It should provide for payment of maintenance till the disposal of case.

iv. Some women unnecessary implicate their husband and in-laws in false case, as they are well aware of the provisions of Law.

v. Cognizance taken by the authorities should be positive and fair enough with proper follow up of the matter by the authorities.

3) On the question at Sr.No.3- Whether these provisions are being used correctly:

i) The positive replies are to the extent of 62% i.e. 459 out of 742. The positive replies from Police officers seem to be on higher side i.e. 95% from supervisory officers and 77% from field officers; followed by Public Prosecutors i.e. 65% and then women activists i.e. 57%.

ii) It is quite noticeable that the positive replies from Judges are to the extent of only 55% with negative replies of 45% and only 40% positive replies from practicing advocates with 60% negative replies which indicates that the provisions u/s 498(A) I.P.C. are not being used correctly with ultimate inference that these provisions are being misused to a large extent which will be examined in the next question.

iii) On suggestions: The researcher feels that the following suggestions / views out of many suggestions, received need special considerations:

(A) From Police Officers:

No specific comments/views are offered by the Police Officers.

(B) From Legal Experts:

Judges:

i. It is misused to torture and for harassment of the relatives of the in-laws.
ii. Many times these provisions are used to harass the husband and his family members. The provisions should be used to its proper perspectives.

iii. Initially it was used correctly, now it has become a weapon of harassment in the hands of women.

**From Public Prosecutors:**

No specific views/suggestions.

**From Advocates:**

i. Relatives of victim are more eager to harass the husband and their relative mostly sisters and brothers of husband.

**(C) From women activists including N.G.Os.:**

i. No, because many women take disadvantage of this provision. They think that we can give the punishment to relatives of in-law, if they do not behave properly.

ii. Some times offence is registered against all family members, who are not the accused. Hence it is necessary that offences should be registered against only those who are real culprits.

4) **On the question at Sr.No.4- regarding the misuse of the provisions u/s 498(A) IPC for involving every member in the family of husband including old parents and unmarried sisters of the husband :**

i) The opinions, received through questionnaires are quite surprising as the combined positive replies are 90%. The positive replies above 90% are from Police Officers (field-level 93% and supervisory 98%), Judges (97%) and practising advocates (94%). The positive replies from Public Prosecutors are 88% and 85% from women activists. The replies to such a large extent indicates that the provisions u/s 498 (A) IPC are being misused substantially.

ii) When the replies indicate that the provisions are misused, then it was further opined by all the three different groups that these provisions are being misused largely by the relatives i.e. mother, father, brother etc. of the victim by involving every member of the husband’s family as 97% (720 out of 742) persons opined that the relatives of the victim are misusing these provisions.

iii) Even 98% (254 out of 258) women activists have opined that these provisions are misused by the close relatives of the married women, the same view was supported by lawyers (90%), public prosecutors (100%), judges (86%) and police officers (100%).
iv) Some replies also indicate the misuse by Police but it is too minimum as these are only 3% (22 out of 742) replies, which indicate the misuse of these provisions by Police. There are only 2% (4 out of 258) replies from women activists, 10% (14 out of 142) from public prosecutors and 14% (4 out of 29) from judges.

v) The above facts, based on the replies indicate that the provisions of 498(A) IPC are being misused to a substantial extent by the close relatives of the married women i.e. victim for involving most of the members of the husband and in-law’s family.

vi) The researcher is also supportive to above views, based on his personal experience and observation by him as one of the senior police officers.

vii) On suggestions: The researcher feels that the following suggestions / views received from different groups need special attention to deal with the probable misuse of the provisions u/s 498(A) IPC:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Some times yes. By close relatives and so called well wishers of girls family.

From Field officers (PSI /API/PI)

i. Yes, by close relatives (Father, Mother, Brother of a marries woman.

(B) From Legal Experts:

Judges:

No Specific suggestions.

From Public Prosecutors:

i. Even married daughters who are on visiting terms assist or encourages husband for ill treatment.

From Advocates:

i. Misused by family members for corruption.

(C) From women activists including N.G.Os.:

i. Yes, to some extent, dishonest police encourage the misuse of the provisions. In some cases to take the revenge, some relatives misuse the provision.
5) On the question at Sr.No.5- regarding awareness of general public about these provisions:

i) About 62% (457 out of 742) replies indicate that the general public is aware of these provisions. Particularly, the women activists to the extent of only 55% opined that the general public is well aware of these provisions. It means that substantial portion of general public are not aware of these provisions as about 38% (285 out of 742) replies are negative which includes 45% negative replies from women activities.

ii) The positive replies to the extent of 80% received from Supervisory Police Officers, followed by field level Police Officers (75%), Public Prosecutors (70%) and Judges (62%).

iii) The majority views i.e. 55% (78 out of 142) from practising lawyers opined that the general public is not aware of these provisions. The combined negative replies of 38% (285 out of 742) is also quite substantial which indicate that the large section of general public is not aware of these legal provisions.

iv) On Suggestions: The researcher feels that the following suggestions/views, received from three groups require special consideration to make the general public aware of these provisions.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. NGOs and Govt. have to play a greater role in educating rural people and slum-dwellers about legal provisions using Mass Media like News Papers, T.V. Channels, and Radio etc.

From Field officers (PSI /API/PI)

i. By organizing the workshop regarding legal provisions of the law by giving wide publicity through media for awareness of legal provisions.

ii. In colleges, awareness campaign amongst students should be taken up.

iii. Publicity of Legal provisions through Grampanchayat- Gramsabha.

iv. Awareness in public can be done by various ways like media, newspapers, T.V. through social programs specially conducted for woman.

v. Awareness programmes should be arranged by social workers/ NGOs or Police.
(B) From Legal Experts:

Judges:
i. It should be through media, Newspapers and by NGOs. The legal literacy camps should be arranged by courts through legal aid committee.

ii. A wide publication through press, media and through movies should be undertaken.

From Public Prosecutors:
i. Women should be made aware about their legal rights, provisions in law for their protection.

ii. Due understanding be given to parties at the time of marriage ceremony.

From Advocates:
i. Law literacy camps organized by the law faculty.

ii. Public awareness through street plays, workshops, melawa, conventions, conferences etc.

iii. Arrange legal literacy camps and publish legal provisions through media.

(C) From women activists including N.G.O.s.:

i. PSO should make effective use of "Mohalla committee" to make the general public aware of these provisions. Mahila Dakshata Samiti is also a good medium.

ii. Lectures on legal literacy in colleges can help.

iii. Some common laws should be included in the syllabus of school, documentaries should be made and shown to public at large.

iv. For the general awareness of people regarding these provisions, it is necessary to take steps for legal literacy.

v. Villagers are not aware of these provisions because of their ill-literacy.

From the researcher:

(i) The researcher feels that frequent awareness campaign should be organized by women activists and NGOs to make the general public aware of these provisions. But at the same time, the message of caution against its misuse should also be spread through such campaigns so that the real object of deterrence and prevention of cruelty to women will be achieved.
(ii) Many persons have suggested that these legal provisions should be included in the syllabus of college which the researcher feels that this suggestions will be quite useful to make the young marriageable persons (both males and females) aware of these provisions.

6) **On the question at Sr.No.6- on disposal of cases u/s 498(A) IPC through 'Lok-Adalat' with basic object of reconciliation /uniting them together:**

i) Most of the persons from all the three groups have suggested that these cases should be brought under the purview of 'Lok-Adalat' for summary disposal with the consent of both parties for the basic object of reconciliation or uniting them together. The combined positive replies are substantial i.e. 91% (674 out of 742). The positive replies from women activists are 92% (238 out of 258), public prosecutors 95% (76 out of 80), judges-90% (26 out of 29), practising lawyers-85% (120 out of 142) and police officers at functional level-93% (179 out of 193) and supervisory officers 88% (35 out of 40).

ii) The negative replies amount to 9% only. It is generally around 10% from all the groups.

iii) **The researcher also strongly supports the positive views/suggestions of bringing these cases u/s 498(A) IPC under the purview of 'Lok-Adalat' which can be disposed of summarily without any waiting period but with the consent of both parties that too for reconciliation or uniting them together.**

   It is noticed during the study that many couples have started living together even after registration of cases of ill-treatment which could be registered due to sudden quarrel between them. In many cases, the women complainants have turned hostile basically for getting the cases acquitted.

   Considering the long pendancy period in court and also generally the less quantum of punishment in cases u/s 498(A) IPC, as observed during the study, the researcher strongly feels that such cases be brought under the purview of 'Lok-Adalat' with their consent for disposal and give them a chance of reconciliation. However, it is suggested that if both the parties do not agree with the final decision of 'Lok-Adalat', then such cases be continued to be decided by judicial process.

iv) **On suggestion:** The researcher feels that the following suggestions need special considerations:

(A) **From Police Officers:**

From Supervisory Police Officers (Dy.S.P. and above)

i. Summary disposal through, Lok-Adalat is recommended by many senior-level Police officers for the basic object of reconciliation /uniting them together again. They opined as follows.
ii. Lok-Adalat will ensure public attendance and put moral pressure on the husbands family and parents of other prospective brides may avoid this family.

From Field officers (PSI /API/PI)

i. Because it is related to unity of family i.e. Husband -wife and children, minor problems can be solved in “Lok-Adalat” & family could be saved from splitting.

ii. Various cases u/s 498(A) IPC register due to misunderstanding & minor reasons.

iii. In Lok-Adalat differences will be sorted out by re-conciliation. Wife or Husband can be warned to improve their behavior with each other.

iv. “Lok-Adalat” is of compromising nature whereas Regular Courts are of punishing nature. Further, Lok-Adalat being legal body, matters solved by them gets protection of law, which then puts mental / social pressure on both wife & husband.

v. These cases are matrimonial concerning with family affairs. Therefore these cases may be allowed to be comprised in Lok-Adalat, so there will be quick disposal and there by parties will get justice speedily.

(B) From Legal Experts:

Judges:

i. In every case u/s 498 (A) of the IPC, there is always chance of uniting the parties together again.

ii. Yes, cases where in only offence complained of is u/s 498 (A) of IPC and where proceeding u/s 125 of Cr.P.C. is initiated.

iii. Reconciliation is best mode to settle matrimonial dispute. It is a mode better than Police and Court proceedings.

iv. Such cases should be brought before Lok-Adalat for uniting them together so as to give opportunity to improve their behaviour and to avoid further complications such as divorce etc.

v. By amending the section 320 of the Code of Criminal Procedure, the court may permit the parties to compromise the matter between them.

vi. An offence under sec. 498 (A) IPC is to be made compendable, whereby the parties would get an opportunity to settle their dispute / differences amicably and their matrimonial life would be saved from being spoiled.

vii. No, because it will affect gravity of that offence. The offenders will not have fear of committing that offence.
From Public Prosecutors:

i. Considering the social and mental element of the society of Hindu and Indian families, it is very necessary to bring cases under "Lok-Adalat".

ii. In some of the cases it may help in uniting them together but at the same time precaution must be taken that the victim is not subjected to more victimization.

iii. The cases u/s 498(A) should be compounded. In many cases, the compromise between two parties has taken place out of the court, but the cases were pending in the court.

iv. Such cases can be compounded through "Lok-Adalat". However for this, it is necessary to make amendment in the Cr.P.C and make the offence compoundable.

v. When any woman goes to the extent of sec 498(A) I.P.C., then uniting becomes very rare, but if both parties are willing to come together, then law should not be obstacle.

From Advocates:

i. If the offence is only u/s 498 (A), then Lok Adalat is the effective way of disposal of cases with the consent of both the parties.

ii. They feel free in the Lok-Adalat, having more freedom rather than that of in the court.

iii. Offence u/s 498(A) IPC is non-compoundable one and hence when the parties come for reconciliation, law doesn’t permit them to compound and hence it is necessary to make it compoundable.

iv. Experience shows that in Matrimonial matters if parties are properly advised, there is every possibility of amicable settlement or reconciliation.

v. It is seen that such cases are registered in hot temperament of mind, after lapse of some period, parties conclude to compromise, hence can be solved by Lok-Adalats.

(C) From women activists including N.G.Os.:

i. Legal process is lengthy one. Lok Adalat saves time of both the parties, Judiciary as it is said, “Justice delayed is justice denied”.

ii. Quicker results. Satisfactory talk between both the parties. Feasible solution

iii. To give sufficient chances to both the parties so that they can think properly to make their lives happy.

iv. Reconciliation and other provisions will be effective at early stage and will have more positive effect on parties than that from the judiciary.

v. Some times the cases are filed under the heat of anger. Sometimes complainant feels guilty and hence provisions must be brought under Lok Adalat.
vi. Members of the committees can make them understand, the fruitfulness of settling the matters through Lok-Adalat.

vii. Save time and money, direct communication and positive results, less harassment to both parties.

viii. Most of the cases are settled by reconciliation, which is finally good for both the parties, irrespective of the fact whether they live together or not in future.

ix. In Lok-Adalat differences will be sorted out by reconciliation. Husband or wife can be warned to improve their behavior in Lok-Adalat.

x. Reconciliation in Lok-Adalat is welcome, but the consent of the victim must sought prior because some influential persons can exercise pressures. After reconciliation, police must supervise if she is really happy or not, for a certain period.

xi. In such cases Lok-Adalat is better, because the maximum results are positive and chance to correct the mistakes and start a new life with positive attitude.

From the researcher:

The researcher also feels that the cases be brought under the perview of Lok-Adalat with the consent of both parties and give them chance for reconciliation. As suggested by many persons, the researcher also feels that the offence u/s 498 (A) IPC should be made 'Compoundable' with proper amendment in Cr.P.C.

7) On the question at Sr.No.7- on reconciliation of cases through social security cell/ women N.G.Os. prior to registration of F.I.R. u/s 498 (A) IPC:

i. The positive replies for supporting the reconciliation through social security Cell/women NGOs are quite substantial i.e. 85% (634 out of 742). The maximum positive replies are from supervisory police officers i.e. 95% (38 out of 40) and field officers i.e. 93% (179 out of 193), which are presumably based on their practical experience while dealing with such cases. Even the women activists also have supported the above views/suggestions to a large extent i.e. 89% (230 out of 258), followed by judges i.e. 83% (24 out of 29), public prosecutors- 75% (60 out of 80) and practising advocates- 72% (103 out of 142).

ii. The negative replies are only 15% (108 out of 174). Particularly, the negative replies from women activists are only 11% (22 out of 258), followed by police officers of around only 5%. However, the negative replies are slightly on the higher side from Legal Experts i.e. Judges-17 (5 out of 29), Public Prosecutors-25% (20 out of 80) and advocates-28% (39 out of 142).

iii. On Sub-question 7(i): Whether the reconciliation should be recognised legally by the judiciary:
i. The combined positive replies are 71% (531 out of 742); with maximum positive replies from Supervisory Police Officers i.e. 85% (34 out of 40); followed by 74% from both Advocates and field-level Police Officers; Judges-72%; women activists-69% and 62% from Public Prosecutors which indicate the overall substantial view that the reconciliation before registration of the offence u/s 498(A) IPC be legally recognised by the judiciary.

ii. The combined negative replies are 29% (211 out of 742) only with maximum negative replies from Public prosecutors i.e. 38% (30 out of 80); followed by women activists-31%; Judges-28% 26% from both field-level Police Officers and Advocates and 15% from Supervisory Police Officers which indicate the negative view that the reconciliation before registration of offence u/s 498 (A) IPC should not be legally recognised by the judiciary.

iii. From Researcher: The researcher strongly supports the majority views (71%) for recognising legally the reconciliation through social security cell / women N.G.Os. before registration of the offence by judiciary though there is no such legal provision in the Act at present. The researcher feels that the delay in registration of FIR u/s 498(A) IPC should be properly explained as such delay is caused due to efforts in such reconciliation through social security cell or women N.G.Os.

iv) On Sub-question 7(ii) : On suggestion for amendment in Law to recognise the reconciliation prior to registration of FIR u/s 498(A) IPC as no such legal provision exists in present Law:

(i) The combined positive replies are 65% (483 out of 742); with maximum positive replies from Advocates i.e. 70% (99 out of 142); followed by Women Activists-69%; Judges-65%; field-level Police Officers-62%; Supervisory Police Officers-60% and 55% from Public Prosecutors which indicate that the necessary amendment should be made in law to recognise the reconciliation before registration of FIR u/s 498(A) IPC.

(ii) The combined negative replies are 35% (259 out of 742) with maximum negative replies from Public prosecutors i.e. 45%; followed by Supervisory Police Officers-40%; field-level Police Officers-38%; Judges-35%; women activists-31% and 30% from Advocates which indicate that there is no any need for amendment in Law to recognise such reconciliation through social security cell before registration of FIR u/s 498 (A) IPC.

(iii) From Researcher: Considering the positive and negatives views, the researcher supports the majority views which substantially supported the views of necessary amendment in Law to recognise legally the reconciliation through social security cell or women N.G.Os. before registration of the FIR u/s 498(A) IPC which will be helpful in saving the families from spoiling the relation further. However, if the reconciliation efforts fail, the legal remedy of registration of FIR u/s 498(A) IPC is already there. The researcher
further feels that the period for reconciliation should not be more and but be confined to maximum period of one month which should be properly explained in FIR in case if the reconciliation fails to bring comprise and settling down the family.

v) **On suggestion:** The researcher feels that the following suggestion need special considerations:

**(A) From Police Officers:**

*From Supervisory Police Officers (Dy.S.P. and above)*

i. Yes, the aim is to reunite the family and gives all chances for the patch up. Through not explicitly pronounced, it is being practiced in most places in India to cap rising crime figures u/s 498A.

ii. If not legally, the recommendations of the above bodies should be given weightage.

*From Field officers (PSI /API/PI)*

i. Offence should be registered after-primary inquiries and accused persons should not be arrested immediately.

ii. Reconciliation should be made a mandatory procedure before lodging F.I.R.

**(B) From Legal Experts:**

*Judges:*

i. Yes. In fact it should be mandatory recourse to be followed by parties and until the same has failed, proceeding should not be initiated in court though investigation. FIR shall be registered only after reconciliation cell or N.G.O. certified that compromise/reconciliation has failed.

ii. Yes, in addition to it, team of trained counselor can even solve the disputes (ii) It should be recognized by Law provision hence amendment to that effect is necessary. (iii) The matrimonial matters should be first referred to some such agency who can deal with the problem effectively. Now also in some cases, the parties approach to Mahila Takrar Niwaran Kendra before lodging the FIR. However the said agency is not found effective for want of adequate psychological training in the field.

iii. If offence is not registered, question of judicial recognition would not arise. (ii) Provisions are to be made for reconciliation prior to registration of FIR.

*From Public Prosecutors:*

i. For avoiding further judicial struggle, special amendment in law should be made for reconciliation prior to F.I.R.
ii. Reconciliation be tried through N.G.O. and not police machinery.

iii. Yes. There should be conciliation before registering of F.I.R., just like the working of family courts.

iv. To implement the reconciliation, the provision is to be made in Law, otherwise due to conciliation, the delay is caused in filing FIR, which is damaging to prosecution case in court.

**From Advocates:**

i. Offence u/s 498 (A) should be amended to the extent of making it "compounding" u/s 320 of Cr.P.C. after registration.

ii. Yes, if parties fail to do so, then a case under proper section is to be registered.

iii. Yes, but reconciliation must be in a free and fair atmosphere.

**From women activists including N.G.O.s:**

i. There should be provision of reconciliation of both parties by N.G.Os. before registration of FIR.

ii. Prior to registration of F.I.R. u/s 498(A) of I.P.C. the Police first try to find out real causes of disputes / crimes.

iii. Reconciliation should be recognized legally prior to registration.

iv. Reconciliation prior to registration is welcome but some responsible welfare officer must observe for certain period after reconciliation.

**From the researcher:**

The researcher also strongly supports to make sincere efforts for reconciliation through Social Security Cell, attached to almost every police station in the state or women N.G.Os., prior to registration of an offence u/s 498(A) IPC. Presently, though it is the practice in Maharashtra state, it is not recognized by the law. Hence the researcher is of the strong view that necessary amendment in Cr.P.C. and IPC should be made for legally recognizing and allowing the reconciliation through such Social Security Cell or women N.G.Os, prior to registration of an offence u/s 498 (A) IPC.
(B) On provisions dealing with abatement to commit suicide due to ill-treatment (u/s 498 A/ r/w 306 IPC)-

<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists / N.G.Os.</th>
<th>Remark/ Com. Views</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Field Officer</td>
<td>Supervisory P.Officers</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
<tr>
<td></td>
<td>(PSI / API / PI)</td>
<td>(Addl.DGP/ IGP/DIGP/ SP &amp; Dy.S.P)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Do you consider that the legal provisions for dealing with suicidal death due to ill treatment (u/s 498 a r/w 306 IPC) are sufficiently strong enough to prevent suicidal deaths of young married woman?</td>
<td>193 Yes</td>
<td>40 No</td>
<td>29 Yes</td>
<td>80 No</td>
</tr>
<tr>
<td></td>
<td>2 3</td>
<td>4 5</td>
<td>6 7</td>
<td>8 9</td>
</tr>
<tr>
<td>2. Do you consider that these provisions are used effectively?</td>
<td>170 Yes</td>
<td>22 No</td>
<td>28 Yes</td>
<td>12 No</td>
</tr>
<tr>
<td></td>
<td>88% 12%</td>
<td>70% 30%</td>
<td>76% 24%</td>
<td>81% 19%</td>
</tr>
<tr>
<td>3. Do you consider that these provisions are being used correctly?</td>
<td>163 Yes</td>
<td>30 No</td>
<td>27 Yes</td>
<td>13 No</td>
</tr>
<tr>
<td></td>
<td>84% 16%</td>
<td>67% 33%</td>
<td>69% 31%</td>
<td>71% 29%</td>
</tr>
<tr>
<td>4. Do you consider that these provision are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?</td>
<td>183 Yes</td>
<td>10 No</td>
<td>37 Yes</td>
<td>03 No</td>
</tr>
<tr>
<td></td>
<td>95% 5%</td>
<td>93% 7%</td>
<td>97% 3%</td>
<td>95% 5%</td>
</tr>
<tr>
<td>If yes, by whom?</td>
<td>---</td>
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</tr>
<tr>
<td>i) Police</td>
<td>---</td>
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<td>---</td>
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<tr>
<td>ii) Close relatives</td>
<td>---</td>
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</tr>
<tr>
<td>(Father, Mother, Brother of a married woman.)</td>
<td>193 No</td>
<td>40 Yes</td>
<td>25 No</td>
<td>80 Yes</td>
</tr>
<tr>
<td></td>
<td>100% 100%</td>
<td>86% 100%</td>
<td>90% 98%</td>
<td>97%</td>
</tr>
</tbody>
</table>

Note- Blue for positive and Red for negative replies.
<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists / N.G.Os.</th>
<th>Remark/ Combination views</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Total (742) questionnaires received out of (1000) distributed.]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>YES  NO</td>
<td>YES  NO</td>
<td>YES  NO</td>
<td>YES  NO</td>
</tr>
<tr>
<td>1.</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>5. Do you think that the general publics are well aware of these provisions?</td>
<td>145 48%</td>
<td>30 10%</td>
<td>48 16%</td>
<td>32 13%</td>
</tr>
<tr>
<td></td>
<td>75% 25%</td>
<td>75% 25%</td>
<td>55% 40%</td>
<td>50% 40%</td>
</tr>
</tbody>
</table>


B. Analysis / Comments

On the information, received through questionnaires on provisions dealing with abetment to commit suicide due to cruelty to women u/s 498 (A) r/w 306 IPC.

1) On the question at Sr.No.1: whether the present provision u/s 498 (A) r/w 306 IPC are strong enough to prevent suicidal death due to cruelty: -

i) The combined replies received from all three groups are positive to the extent of 73% (544 out of 742). Particularly, the maximum positive replies are from Judges i.e. 90% (26 out of 29), followed by Police Officers of field level i.e. 84% (163 out of 193), Public Prosecutor-79% (63 out of 80), women activists-69% (177 out of 258), Supervisory Police Officers-68% (27 out of 40) and practising advocates- 62% (88 out of 142).

ii) The combined negative replies of 27% (198 out of 742) which includes the maximum negative replies from Supervisory Police Officers i.e. 32% (13 out of 40) and women activists-31% (81 out of 258) indicate that the present legal provisions are not sufficiently strong enough to prevent suicidal death of married women which is further supported by the practical reality of having such suicidal death of young married women practically every day. The negative replies ultimately, indicate that the law makers should take corrective measures to make these provision further stronger so as to be more deterrent for the prevention of such suicidal deaths.

iii) On suggestion: The researcher feels that the following suggestions need special attention:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Bridal suicides are a psychosocial problem. (ii) Death of a bride under any circumstances than natural should be dealt with, as a grave matter. Investigations should be monitored at every stage.

ii. The provisions are not deterrent enough otherwise these cases would not have happened. There is need to strengthen the present law so that girl can feel safe going to in-laws house after getting married

From Field officers (PSI /API/PI)

i. The ill treatment is within the house and no independent witness is there, hence, other corroborative evidence should be considered strongly.
ii. 90% suicidal deaths are not due to major ill treatment but of minor reasons & frustration. There is a need of counseling through NGO at the grass root level.

(B) From Legal Experts:

Judges:

i. Burden to prove that suicide was not abetted by in-laws, should be placed upon them

From Public Prosecutors:

i. There should presumption of law, that the accused has abetted the suicide and burden should be kept on the accused, that he has not abetted the suicidal death.

ii. If suicide is committed within a year of marriage strong presumption must be given in favour of prosecution and burden must be shift on accused to prove innocence.

iii. The punishment provided for section 306 I.P.C. is required to be enhanced.

From Advocates:

i. Police machinery should be given sufficient training of knowledge at the grass root level to avoid acquittal on the ground of improper investigation

ii. Normally we find that in most of the cases accused are acquitted either due to hostility of witness or benefit of doubt. Therefore I suggest, that provisions be made to punish hostile witness.

iii. For suicidal death, exact cause of death and evidence is not possible to be brought before. Only dying declaration is not sufficient to convict the accused.

(C) From women activists including N.G.Os.:

i. Though, these are sufficient provisions to prevent the women from suicide still most of the women are unaware about there provisions.

ii. Lack of evidence against the in-laws family members is a bar in rendering justice to such women.

iii. In some cases dying women gives her dying declaration under influence of her husband and his family. They teach her that you are now going to die if you complaint against your husband and his family then who will look after your young children, they will become orphan etc.

iv. No, If the legal provisions were sufficient then, such type of death should have stopped by now.

v. Strict punishment should be given to abettors to deter others from abetting young married women from committing suicide.
(D) From Researcher:

There are some suggestions even from judges for shifting burden to the accused to prove their innocence. The present legal provisions u/s 113-A of Indian Evidence Act provides for discretionary presumption in favour of prosecution case, hence no proper weightage is given to the presumptive provisions of section 113-A of Indian Evidence Act. In most of the cases, the dying declaration is influenced either by the husband or his relative who are generally present in hospital initially at the time of her critical health condition, considering the future of the children. These are practical difficulties in getting the convictions and hence, the husband and other accused are unpunished and be ready to arrange marriage with the new bride. The conviction rate is very low i.e. 8.93% on tried cases and 4.66% on total registered cases. The researcher offers the following suggestions:

i. Suggestion for mandatory presumptions:- Considering the above facts, the researcher suggest the amendment in Indian Evidence Act to provide for mandatory presumption in place of discretionary presumption u/s 113 A of Indian Evidence Act.

ii. Suggestion for minimum mandatory punishment u/s 306 IPC:- The present legal provisions u/s 306 IPC does not provide for any minimum mandatory provision, giving lot of discretion to the judiciary for awarding quantum of punishment in convicted cases which is generally not on the higher side, as noticed during this study, though the maximum punishment is upto 10 years of imprisonment. The provision of 306 IPC has been there in I.P.C. since its inception without any amendment. Though section 498 (A) IPC has been added to IPC with corresponding provision by new section 113(A) in Indian Evidence Act in the year 1983, no amendment was made in section 306 IPC. There is no minimum mandatory punishment under section 306 IPC which results into awarding less quantum of punishment to the accused in convicted cases.

iii. First the conviction rate is very less, as pointed out above and secondly, the quantum of punishment is also very less i.e. even of one or two years imprisonment as noticed during this study as there is no provision for mandatory minimum punishment u/s 306 IPC, though the maximum punishment is upto 10 years of imprisonment. In only a few cases, the punishment is awarded of 7 years imprisonment and very rarely 10 years of imprisonment, as noticed during this study. Hence the researcher suggest to amend section 306 IPC for providing minimum mandatory punishment of 5 years of imprisonment by way of amendment to section 306 IPC.

iv. Trial by Fast-Track Session Court:- Considering the long pending period of such cases in Court and also large pendency of cases i.e. 48% transpired during study, the researcher suggest the disposal of such cases by fast-track court which will make these provisions more effective in prevention of such offences.
2) **On the question at Sr.No.2: which pertains to effectiveness of these legal provisions:**

i) The combined positive replies are 71% (530 out of 742) with maximum positive replies from Police Officers at field level i.e. 88% (170 out of 193), followed by Public Prosecutors-81% (65 out of 80), Judges-76% (22 out of 29), Supervisory Police Officers -70% (28 out of 40), Women Activists-64% (165 out of 258) and 56 % (80 out of 142) from practising lawyers.

ii) The combined negative replies are 29% (212 out of 742) with maximum negative replies from lawyers i.e. 44% (62 out of 142) and women activists 36% (93 out of 258) which indicate that the legal provisions u/s 306 r/w 498 (A) IPC are not being used effectively that could be the reasons as to why these provisions have not been effective in prevention of suicidal deaths of young married women.

iii) **On suggestion: The researcher feels that the following suggestions need special consideration:**

(A) **From Police Officers:**

*From Supervisory Police Officers (Dy.S.P. and above)*

i. General awareness is lacking.

ii. Death of bride under any circumstances should be dealt with as a grave matter. Investigations should be monitored at every stage.

*From Field officers (PSI /API/PI)*

i. To make them more effective, the burden of proof should be shifted on the accused person.

ii. Generally if young married woman is dead due to ill-treatment, interference of media & politics is very much and the whole case is diverted as murder so this interference should be stopped.

(B) **From Legal Experts:**

Judges:

i. Make people aware of their right but also make them aware of proper use of the section.

ii. Proper investigation avoids false implications of unnecessary and irrelevant accused.

*From Public Prosecutors:*

i. In most of the cases, the I.O. treat allegation as evidence. Cause of death must be ascertained as to homicidal, accidental or suicidal.

ii. Considering the material lacunas like delay in lodging complaint under this section etc. more legal awareness is required.
From Advocates:

i. Dying declaration of victim and circumstantial evidence should be considered as good piece of evidence.

ii. I suggest that action should be immediately directed against hostile witness. (2nd) Law should be amended so as to give more weightage to circumstantial evidence.

iii. Conciliation and awareness is important with respect to family life. Maintain good culture in family

iv. Police machinery and society should take offence seriously. Victim should be dissuaded from commission of the act, so confidence about her life should be created in women's mind.

(C) From women activists including N.G.Os.:

i. It has to be made more effective, so that general public will have fear of Law.

ii. Awareness should be created through social organizations. It should be included in the syllabus of education system.

iii. Make woman come forward to tell their grievances through either woman NGO or woman cell.

3) On the question at Sr.No.3: On its use correctly:

i. The positive replies which indicate that these provisions are being used correctly are 67% (499 out of 742) with maximum positive replies from field level Police Officers i.e. 84% (163 out of 193) and then followed by Public Prosecutors i.e. 71% (57 out of 80), Judges 69% (20 out of 29), Supervisory Police Officers 67% (27 out of 40) and 52% (151 out of 256) from women activists.

ii. The negative replies are 33% (243 out of 742) with maximum negative replies of 57% (71 out of 124) from practising lawyers followed by 38% (97 out of 258) from women activists. 33% (13 out of 40) from supervisory police officers and 31% (9 out of 29) from judges, which indicate that there is a large number of person who opined that these provisions are not being used correctly. It means, it ultimately suggests that these provisions are being misused to some extent.

iii) On suggestion: The researcher feels that the following suggestions/view need special attention in this regard:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. There is a tendency to treat bridial suicides as a matter of regular occurrence.

From Field officers (PSI/API/PI)

No specific suggestions.
(B) From Legal Experts:

Judges:

i. Mostly they are used correctly. In some cases they are found misused also.

From Public Prosecutors & Lawyers:

No specific suggestions worth mentioning.

(C) From women activists including N.G.Os.:

No specific suggestions.

4) On the question at Sr.No.4: On its misuse involving all members of husband’s family:

i. The combined positive replies are quite substantial i.e. 90% (666 out of 742). The groups-wise positive replies are as follows –
   - Judges 97% (28 out of 29)
   - Field level Police Officers 95% (183 out of 193).
   - Public Prosecutors 95% (76 out of 80).
   - Supervisory Police Officers 93% (37 out of 40).
   - Lawyers 87% (124 out of 142) and
   - Women Activists 84% (218 out of 258).

   The large number of positive replies are indicative of the fact that these provisions are being misused to a large extent in involving every member of the husband’s family including old parents and unmarried sisters of the husband of the victim.

ii. By way of sub-question, it was further transpired that these provisions are being largely misused by the close relatives of the victim as it is clear from the replies from all the three groups. The combined views of 97% (720 out of 742) indicate that these provisions are being misused by the close relatives of the victim. Even the women activists have opined to the extent of 98% (254 out of 258) about its misuse by close relatives, followed by practising lawyers 90% (128 out of 142), Judges 86% (25 out of 29) and 100% from Public Prosecutors, field-level and Supervisory Police Officers.

iii. A few replies i.e. 3% (22 out of 742) indicate that these provisions are also misused by police to some extent. However, 10% Lawyers and 14% Judges have opined that these provisions are misused by police to some extent.
iv) **On suggestion:** The researcher feels that the following suggestions need special attention:

**(A) From Police Officers:**

**From Supervisory Police Officers (Dy.S.P. and above)**

i. Yes, Close relatives (Father, Mother, Brother of a married woman.)

ii. Persons who are not related to above offence but made as accused only because they are relatives of husbands, this should be prevented.

**From Field officers (PSI /API/PI)**

No specific suggestions.

**(B) From Legal Experts:**

**From Judges, Public Prosecutors and Lawyers.**

No specific suggestions are offered.

**(C) From women activists including N.G.Os.:**

No specific suggestions worth mentioning.

5) **On the question at Sr.No.5: On awareness of general public about these provisions:**

i. The combined positive replies are 62% (457 out of 742) only with maximum positive replies of 75% from both field and supervisory level Police Officers. The Public Prosecutors opined to the extent of 60% (48 out of 80), followed by women activists-57% (147 out of 258), Judges-55% (16 out of 29) and practising lawyers 50% (71 out of 142). Except the views of Police Officers (75%), the positive replies from all the remaining groups are around 50% to 60% only indicating that large number of persons are unaware of these provisions.

ii. The combined negative replies are 38% (285 out of 742) with maximum negative replies from practising lawyers i.e. 50%, followed by Judges i.e. 45% (13 out of 29) and women activists-43% (111 out of 258), which indicate that the large number of persons are not well aware of these provisions.

iii) **On suggestion:** The researcher feels that the following suggestions need special considerations:

**(A) From Police Officers:**

**From Supervisory Police Officers (Dy.S.P. and above)**

i. Awareness campaigns at the root level should be implemented.
ii. Legal provisions, codes, rules etc. available for the protection of the married woman should be brought out through the intensive implementation of the National Action Plan through Mass Media, Radio, T.V. etc.

From Field officers (PSI /API/PI)

i. Awareness programmes may be taken up through videocassettes, movies and drama in collages.

ii. Social workers, woman N.G.Os. should be motivated to create and promote Law-literacy among the low-literate, illiterate people.

iii. In the urban areas up to some extent, the general public is aware but in rural areas people are not at all aware of their rights, which increases the crime.

iv. In some cases, the case is pure accidental or suicidal but the relative insist to record a case of unsuicidal death, i.e. murder u/s 302 IPC In such incidents, Police have to record the case of murder though there are no evidence of murder.

(B) From Legal Experts:

Judges:

i. Through education by N.G.Os., Law graduates, Social workers, Rotary and Lion clubs, Mahila Takrar Niwaran Kendra, the legal literacy camps should be arranged by Legal Aid Committees, and people should be motivated to attend such camps.

ii. Legal literacy awareness thorough NGO, social security cell be arranged in order to improve the behavior of the couple.

From Public Prosecutors:

i. For general public awareness, the provision should be known to them through the journals, T.V. media and newspaper as well as drama should be shown on street.(street play)

ii. Some seminars by legal expert should be taken in public places and rural areas where there should be free assess to public and women at large and lectures about legal awareness should be given.

iii. Programmes should be arranged by the Government through Legal Aid Committee including advocates for well awareness of these provisions.

From Advocates:

i. Public awareness through Street Plays, Workshops, Melawas, Conversation, Conferences, Education, training etc in schools and colleges, rural areas for awareness of such legal provisions is necessary.
(C) From women activists including N.G.Os.:

i. The provisions of the Act invariably be included in the syllabus of higher classes viz. 10th standard and onwards as compulsory subject.

ii. To make the general public aware of the legal provisions, organise seminar regularly through police and through such seminar, the Police Officers and legal expert should make the general public aware of these provision of the Act.

iii. In some cases, the cases are in pure accidental or suicidal but the relatives of the relatives insist to record a case of homicidal death. i.e. u/s 302 IPC. In such incidents, police have to record a case of murder though there are no evidence of murder.

(D) From the researcher:

As noticed the large number of general public are not aware of these legal provisions and unless the public are well aware of the legal provisions, the preventive and punitive object cannot be achieved. This could be one of the reasons as to why increasing trend of suicidal deaths of young married women due to cruelty could not be checked / controlled. Hence, the researcher supports the views of many persons from all the groups public should be made aware of these provisions through electronic and print media, literacy camp, seminars, street-plays, conferences etc. The researcher is also supportive to the suggestion that these provisions should be included in the syllabus of college and particularly of final year of all the branches under the caption 'General Laws'.
(C) On provisions, dealing with Dowry Death u/s 304 (B)IPC.

<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists / NGO's</th>
<th>Remarks / Views</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Total (742) questionnaires received out of (1000) distributed.]</td>
<td>193 40</td>
<td>29 80</td>
<td>142 258 742</td>
<td></td>
</tr>
<tr>
<td>1. Do you consider that the legal provisions for dealing with Dowry Death u/s 304 (B) IPC are sufficiently strong enough to prevent suicidal deaths of young married woman?</td>
<td>172 21 33 07</td>
<td>27 02 64 16</td>
<td>103 39 184 74 583 15</td>
<td></td>
</tr>
<tr>
<td>2. Do you consider that these provisions are used effectively?</td>
<td>167 26 32 08</td>
<td>24 05 61 19</td>
<td>74 68 172 86 530 21</td>
<td></td>
</tr>
<tr>
<td>3. Do you consider that these provisions are being used correctly?</td>
<td>163 30 31 09</td>
<td>15 14 54 26</td>
<td>70 72 179 79 512 23</td>
<td></td>
</tr>
<tr>
<td>4. Do you consider that these provision are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?</td>
<td>164 29 36 04</td>
<td>26 03 73 07</td>
<td>123 19 213 45 635 14</td>
<td></td>
</tr>
<tr>
<td>If yes, by whom?</td>
<td>-</td>
<td>4 (To some extent)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>i) Police</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>ii) Close relatives (Father, Mother, Brother of a married woman.)</td>
<td>193 - 40 -</td>
<td>25 - 80 - 128</td>
<td>254 - 720 -</td>
<td></td>
</tr>
<tr>
<td>5. Do you think that the general public are well aware of these provisions?</td>
<td>132 61 30 10</td>
<td>16 13 54 26</td>
<td>60 82 158 100 450 25</td>
<td></td>
</tr>
<tr>
<td></td>
<td>68% 32% 75% 25%</td>
<td>55% 45% 68% 32%</td>
<td>42% 58% 61% 39% 61% 39</td>
<td></td>
</tr>
</tbody>
</table>

Note- Blue for positive and Red for negative replies.
C. Analysis / Comments

On the information, received through questionnaires on provisions, dealing with dowry death u/s 304(B) IPC:

1) On the question at Sr.No.1: whether the provisions of section 304(B) IPC are strong enough to prevent dowry death:

i) The combined positive views are 79% (583 out of 742) with maximum positive replies are from Judges i.e. 93% (27 out of 29), followed by field level Police Officers i.e. 89% (172 out of 193), Supervisory Police Officers-83% (33 out of 40), Public Prosecutors-80% (64 out of 80), Practising Lawyers-73% (103 out of 142) and 71% (184 out of 258) of women activists. The above facts indicate that the provisions are strong enough to prevent dowry death but the question remains as to whether the dowry deaths are being prevented / controlled. The crime statistics for the year from 1987 to 2004 indicate that the dowry deaths are not controlled / prevented as contemplated by the objectives of these provisions.

ii) The combined negative replies are 21% (159 out of 742) with maximum replies from women activists i.e. 29% (74 out of 258), followed by practising advocates-27% (39 out of 142), Public Prosecutors-20% (16 out of 80) and Supervisory Police Officers 17% (7 out of 40). The Judges have opined to a large extent i.e. 93% that these provisions are strong enough to prevent dowry deaths with negative replies of only 7% (only 2 out of 29).

The negative replies of 29% from women activists; 27% from lawyers and 20% from public prosecutors indicate that the provisions of section 304 (B) IPC are not sufficiently strong enough to prevent dowry deaths which are corroborated by ground realities of having number of dowry deaths, as noticed during study.

iii) The researcher feels that the provisions u/s 304(B) IPC are strong enough to deal with dowry death, as it provides the maximum punishment of life imprisonment i.e. similar to that of murder except death with minimum mandatory punishment of seven years imprisonment, armed with mandatory presumption in favour of prosecution u/s 113 (B) of Indian Evidence Act. In spite of the strong provisions, as mentioned above, the dowry death of young married women have not been prevented / controlled, as aimed by the Amendment of 1986.

The researcher, based on his personal experience as supervisory senior officer and the facts, transpired during the present study, strongly feels that preventive and punitive objects of section 304 (B) IPC could not be achieved to a desired level due to following reasons.
i. The general public are not fully aware of the provisions of section 304(B) IPC as supported by the finding during study (39% have opined that general public are not aware of these provisions.)

ii. In case of dowry deaths, the relatives of the victim generally insist to register the case of murder u/s 302 IPC and if the case of murder u/s 302 IPC is registered, all the ingredients of murder have to be proved beyond doubt which is very difficult for prosecution due to the fact that the death occurred at husband's (accused) place and hence there are no eye witnesses except circumstantial evidence which is also likely to be manipulated by the accused or his relatives.

iii. If the case is not registered u/s 304 (B) IPC, then the prosecution is not entitled to mandatory presumption u/s 113 (B) of Indian Evidence Act.

iv. Most of the police officers even of the rank of Dy.S.P. and Police Inspectors are not well aware of the essential ingredients of section 304 (B) IPC and section 113 (B) of Indian Evidence Act with the ultimate results of acquittal due to lacunas in investigation. The police officers even of the rank of Police Sub Inspector are well aware of the essential ingredients of section 302 IPC i.e. murder but are not well aware of the essentials of dowry death u/s 304 (B) IPC as it requires more depth of legal knowledge.

v. Less sensitivity on the part of Police officers, Public Prosecutors and the judiciary in this respect are contributory factors for making these provisions of section 304 (B) IPC and 113(B) of Indian Evidence Act less effective in deterrence and prevention of dowry deaths of young married women.

iv) On suggestion: The researcher feels that the following suggestions need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. There is need to explain the provisions in simple and exhaustive way so that they can be used effectively.

From Field officers (PSI /API/PI)

i. As it is a serious offence, the punishment given is very less. The punishment given should be on higher side so as to have deterrent effect.

ii. Provisions are definitely sufficient, but the dowry deaths are unavoidable until the greed for dowry exists in the society. The mentality of people needs to be changed.
(B) From Legal Experts:

Judges:

i. Lack or social awareness, lack of respect for others, unsound financial conditions are the reasons of dowry death.

From Public Prosecutors:

i. A stringent law should be made for dowry death because such law will definitely slow done the rate of dowry death.

ii. The present provision to prevent dowry death is sufficiently strong. However it does not prevent the dowry death. The reason being the perverse and greedy attitude of the society for money.

iii. The criminal justice system must equally respond to the needs and notions of the society. The investigation agency must display a live concern and sharpen their wits. They must penetrate in to every dark corner and collect all the evidence. The court must also display greater sensitively to criminality and avoid leniency on all counts.

From Advocates:

i. Still in rural areas woman have no knowledge about their rights and provisions about Dowry Prohibition Act. and dowry death, hence awareness in rural areas by taking legal camps etc. is necessary.

ii. Some effective provisions and effective implementation is necessary.

(C) From women activists including N.G.Os.:

i. Before marriage, women should be made aware of such provisions, schools and colleges can help in such matters.

ii. The court should consider the circumstantial evidence rather than eyewitness.

(D) From Researcher:

In paragraph iii above, the reasons of not achieving the objectives of section 304 (B) IPC have been enumerated. To achieve the punitive and deterrent object of section 304 (B) IPC, the researcher suggest the following.

i. The general public should be made aware of the provisions of dowry death u/s 304 (B) IPC and also of section 113 (B) of Indian Evidence Act through electric and print media, seminars, legal literacy camps, street play etc.
ii. During awareness campaign, the emphasis should be on the mandatory presumptions in favour of prosecution u/s 113 (B) of Indian Evidence Act, available in dowry death cases and not in cases of murder. Hence, the chances of conviction will be much more if the case is registered u/s 304 (B)IPC for dowry death, rather than insisting on registration of murder, as in murder cases the chances of conviction are very remote due to lack of eye witnesses as the death occurred at accused peace.

iii. These provisions should be included in syllabus of college and particularly of last year under the caption ‘General Laws’ for making the youngsters (both male and female) aware of these provisions.

iv. During in-service training to police officers, they should be properly trained about these provisions and collection of evidence in respect of all the essential ingredients of section 304(B) IPC and also of section 113 (B) of Indian Evidence Act for attracting mandatory presumptions to prosecution case.

v. The workshop for Police Officers, Public Prosecutors and Judges be organized to sensitise them on gravity of dowry deaths of young married woman due to non-fulfilment of dowry demands.

vi. Disposal by fast-track court: Considering the long pending period of such cases in court and less conviction rate in these cases, the researcher suggests the disposal of these cases by fast-track court to make these provisions more effective in prevention of dowry deaths.

2) On the question at Sr.No.2: On the use of these provisions effectively -

i) The combined positive replies are 71% (530 out of 742) with maximum positive replies from field level Police Officers i.e. 87% (167 out of 193), followed by Judges 83% (24 out of 29), Supervisory Police Officers 80% (32 out of 40), Public Prosecutors 76% (61 out of 80), Women Activists 67% (172 out of 258) and the lowest by practising lawyers i.e. 52% (74 out of 142).

ii) The combined negative replies are 29% (212 out of 742) with maximum negative replies from practising advocates i.e. 48 % (68 out of 142), followed by Women Activists 33% (86 out of 258) and Public Prosecutors 24% (19 out of 80), which indicate that the provisions u/s 304(B) IPC are not being used effectively which is further corroborated by the findings in present study as the crimes of dowry deaths do not show any downward trend for the period from 1987 to 2004. The low conviction rate i.e. 16% on total disposal cases by the court and only 4% on total registered cases could be one of the contributory factors for less-effective use of the provisions of section 304(B) IPC.

iii) The researcher, based on his experience and present study feels that the provisions are not being used effectively so as to be effective to prevent the dowry death of young married women.
iv) On suggestions: The researcher feels that the following suggestions / views need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Immediate proof and evidence is not available.

ii. As mentioned earlier, brid al deaths are still considered routine suicides (ii) Sensitization of the machinery (Police & Judiciary) involved in the case is very essential.

From Field officers (PSI /API/PI)

i. People are not aware of the provisions. They insist on registering the offence u/s 302 IPC.

ii. More stress on circumstantial evidence should be given than eye witness, because most of the eyewitnesses are residents of the area where accused resides.

(B) From Legal Experts:

Judges:

i. The implementation lacks effectiveness. The major loopholes are found during investigation conducted.

From Public Prosecutors:

i. Society is not aware of these provisions. General awareness is necessary.

ii. It is necessary that there should be a fuller and deeper investigation by some other agency having greater facilities for investigation.

From Advocates:

i. Burden of proving the offence must be changed. It should be on accused that he is innocent.

ii. Proper investigation, police machinery as well as medical officer may note dying declaration. Judicial systems have to give weightage / evidence value to each part of the case.

(C) From women activists including N.G.Os.:

i. Make awareness in the society about this section.

ii. Things after committing the crime are not harsh as they should be.

iii. There should be education to people about the laws against dowry.
(D) From the researcher:

To make these provisions more effective, the researcher has earlier suggested many measures, which are mentioned under the caption suggestion, at end of the question No.1.

3) On the question at Sr.No.3: On its use correctly:

i) The combined positive replies are 69% (512 out of 742) with maximum positive replies from field level Police Officers i.e. 84% (163 out of 193), followed by Supervisory Police Officers i.e. 78% (31 out of 40), women activists-69% (179 out of 258), Public Prosecutors-68% (54 out of 80), Judges-52% (15 out of 29) and the least from Lawyers i.e. 49% (70 out of 142).

ii) The combined negative replies are fairly to a large number i.e 31% (230 out of 742) with maximum negative replies from practising lawyers i.e. 51% (72 out of 142); followed by Judges-48% (14 out of 29); 32% (26 out of 80) from Public Prosecutors and 31% (79 out of 258) from women activists which indicate that the large number of persons have opined that these provisions are not being used correctly. It means these provisions are being misused to some extent which are being examined in next questions.

iii) On suggestion : the persons from all three groups have not come out with any specific suggestion worth mentioning.

4) On the question at Sr.No.4: On its misuse by relatives of the victim for involving most of the members of husband’s family:

i) The combined positive replies to show the misuse of these provisions are 86% (635 out of 742) with maximum positive replies from Public Prosecutors i.e. 91% (73 out of 80); followed by Judges-90% (26 out of 29); Supervisory Police Officers-90% (36 out of 40); field-level Police Officers-85% (164 out of 193); Lawyers 87% (123 out of 142) and 83% (231 out of 258) from women activists. By and large all the groups have opined to the extent of 85% to 90% that these provisions are being misused by the relatives of the victim for involving most of the members of husband’s family including old parents and unmarried sisters of the husband.

ii) It was further transpired that these provisions are misused mainly by the close relatives of the deceased/victim for involving members of husband’s family. The combined positive view to indicates the misuse to these provisions are 97% (720 out of 742) from the close relatives of the victim whereas the misuse is only 3% (22 out of 742) by the Police.

iii) The Researcher also feels that these provisions of dowry death are being misused by the relatives of the victim for involving most of the members of the husband and in-law’s family. But still, it is the fact that the young married women has lost her life due to non-fulfillment of dowry demands in such cases, hence there is a tendency on the part of close relatives of the victim to rope in all the members of the husband’s family by mentioning their names either in FIR or in statements,
recorded during investigation. The Police Officers as I.O. has also the
tendency to make the members of husband's family as accused on the
basis of the statements of relatives of the victim to avoid allegation
against Police.

iv) The Researcher further feels that due to making most of the members
of husband's family as accused, the prosecution case becomes weak as
the names of all members are included in FIR/ Statements in a
stereotype way. If the Supervisory Police Officers with the support of
women activists or N.G.Os. are judicious and selective in change-
sheeting the case against the real culprits, based on evidence, then only
the case can be strong enough from evidence point of view which will
certainly increase the chances of conviction.

v) On suggestion: The researcher feels that the following suggestions
need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Close relatives of victim are more interested to harass the
husbands family

ii. Yes, By her close relatives, such as father and mother.

From Field officers (PSI /API/PI)

i. Yes, Close relatives (Father, Mother, Brother of the married
woman.)

(B) From Legal Experts:

From Judges and Public Prosecutors:

No specific suggestions.

From Advocates:

i. Misuse, by both Police and close relatives.

(C) From women activists including N.G.Os.:

No specific suggestions.

5) On the question at Sr.No.5: On awareness of general public about
the provisions of dowry death:

i) The combined positive replies are 61% (450 out of 742) with maximum
positive replies from supervisory police officers i.e. 75% (30 out of 40);
followed by field-level Police Officers-68% (132 out of 172); Public
prosecutors-68% (54 out of 80); women activists-61% (152 out of 184);
Judges-55% (16 out of 29) and 42% (60 out of 142) from practising
advocates.
ii) The combined negative replies are 39% (292 out of 742) with maximum negative replies from practising advocates i.e. 58% (82 out of 142); followed by judges-45% (13 out of 29); women activists- 39% (100 out of 258); Public Prosecutors-32% (26 out of 80); field-level Police Officers- 32% (61 out of 193) and 25% (10 out of 40) from supervisory Police officers.

The combined negative replies of 39% with maximum replies of 45% from Judges and 39% from women activists indicate that the general public to a large extent are not aware of the provisions of dowry death u/s 304 (B) IPC.

iii) The researcher also feels that the general public to a large extent are not aware of the provision of dowry death and particularly the public are totally unaware of the mandatory presumption under section 113 (B) of Indian Evidence Act which is quite helpful in bringing the conviction. The general public are also not aware of the fact that the maximum punishment of dowry death u/s 304 (B) IPC is upto life imprisonment i.e. similar to that of murder except death with mandatory minimum punishment of 7 years imprisonment. They are also unaware of the fact that the degree of proving the prosecution is certainly less due to mandatory presumption due to section 113 (B) of Indian Evidence Act.

That could be the reasons as to why the relatives of the victim insist for registration of murder u/s 302 IPC.

In view of above facts, the researcher feels that the general public should be made aware of the provisions of dowry death u/s 304(B) IPC and also provision in section 113 (B) of Indian Evidence Act through on going frequent programmes by electronic and print media besides other means of awareness campaign like seminars, workshop, conferences, guidance to college-going students, legal literacy camps by Legal Aid Committee etc.

iv) On suggestions: The researcher feels that the following suggestions need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)
i. Mass education through all media should be a continuing process.

From Field Officers (PSI /API/PI)
i. A committee of social workers comprising woman and law persons should be formed and activated to work in rural and Adiwasi areas for awareness campaign.
ii. People are not well aware of the provisions of 304 (B) IPC. Facts of 304(B) should be explained to the members of Mahila Committees during their meetings, which are conducted by PSOs regularly.

(B) From Legal Experts:

Judges:

i. The legal Aid camp should be held at villages by NGOs and people should be made aware of these legal provisions.

ii. The general public is not aware as to when sec 304(B) of IPC is attracted. So it is necessary to make people aware of these provisions by arranging camps or keeping a post of legal expert/advisor at each police station.

From Public Prosecutors:

i. The legal Aid should be held at villages, seminars by NGOs and people should be made aware of these legal provisions and their consequences.

ii. Government should take more efforts to make the general public well aware of these provisions by propaganda in newspapers and on televisions.

From Advocates:

i. General publication of law in vernacular language.

ii. Effective work by police, legal seminars by social and legal advisory committee.

(C) From women activists including N.G.Os.:

i. Much needs to be done for spreading the knowledge and awareness among the masses.

ii. The strict implication of this law is important. And we should try to tell people the advantages of this law.

iii. General public should be made aware through media, meeting, Newspaper etc. though social workers.

iv. Police should set up a special awareness cell for more effectiveness.

v. Give national importance to this subject.
(D) On provisions dealing with prohibition of dowry (giving, taking and demanding of dowry) u/s 3 & 4 of Dowry Prohibition Act., 1961.

<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists/ N.G.Os.</th>
<th>Remarks Combine views</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Field Officer (PSI / API / PI)</td>
<td>Supervisory P. Officers (Addl. DGP/ IGP/ DIGP/ SP &amp; Dy.S.P)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
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<tr>
<td>[Total (742)questionnaires received out of (1000) distributed.]</td>
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<td>29</td>
<td>80</td>
<td>142</td>
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<td>YES/NO</td>
<td>YES/NO</td>
<td>YES/NO</td>
<td>YES/NO</td>
<td>YES/NO</td>
</tr>
<tr>
<td>1. Do you consider the legal provisions for dealing with prohibition of dowry (taking, giving and demanding u/s 3 &amp; 4 of the Prohibition of Dowry Act., 1961 are sufficiently strong enough to prohibit taking, giving and demanding of dowry?</td>
<td>154 39 26 14</td>
<td>22 07 61 19</td>
<td>89 53</td>
<td>152 106</td>
</tr>
<tr>
<td></td>
<td>80% 20% 65% 35%</td>
<td>76% 24%</td>
<td>76% 24%</td>
<td>63% 37%</td>
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<tr>
<td>2. Do you consider that these provisions are used effectively?</td>
<td>127 66 20 20</td>
<td>13 16</td>
<td>49 31</td>
<td>60 82</td>
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<td>66% 34% 50% 50%</td>
<td>45% 55%</td>
<td>61% 39%</td>
<td>42% 58%</td>
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<tr>
<td>3. Do you consider that these provisions are being used correctly?</td>
<td>134 59 26 14</td>
<td>14 15</td>
<td>51 29</td>
<td>62 80</td>
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<td></td>
<td>69% 31% 65% 35%</td>
<td>48% 52%</td>
<td>64% 36%</td>
<td>44% 56%</td>
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<tr>
<td>4. Do you consider that these provision are being misused to some extent by involving every member in the family of husband including old parents and unmarried sisters of the husband?</td>
<td>142 51 26 14</td>
<td>23 06</td>
<td>65 15</td>
<td>119 23</td>
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<tr>
<td></td>
<td>74% 26% 65% 35%</td>
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<td>84% 16%</td>
</tr>
</tbody>
</table>

If yes, by whom?

i) Police
- - - -
- - - -
- - - -
4 (To some extent)
- - - -
14 (To some extent)
- - - -
4 - -
22 (Out of 18 To some extent)

ii) Close relatives (Father, Mother, Brother of a married woman)
- - - -
- - - -
- - - -
14% - -
- - - -
10% - -
- - - -
2% - -
3% - -
193 - 40 -
25 - 80 -
128 - 254 -
100% - 100% -
86% - 100% -
90% - 98% -
97% - -

Note: Blue for positive and Red for negative replies.
<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Field Officer (PSI / API / PI)</td>
<td>Supervisory P. Officers (Addl. DGP/ IGP/ DIGP/ SP &amp; Dv.S.P)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
<tr>
<td></td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>5. Do you think that the general public are well aware of these provisions?</td>
<td>193</td>
<td>40</td>
<td>29</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>106</td>
<td>87</td>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>55%</td>
<td>45%</td>
<td>75%</td>
<td>25%</td>
</tr>
<tr>
<td>6. Do you consider that the cases u/s 3/4 of Prohibition of Dowry Act should be brought under the perview of summary disposal through “Lok-Adalat”, the effective way of disposal of cases with the consent of both parties with the basic object of reconciliation / uniting them together again?</td>
<td>159</td>
<td>34</td>
<td>26</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>82%</td>
<td>18%</td>
<td>65%</td>
<td>35%</td>
</tr>
<tr>
<td>7. Do you consider that reconciliation should be tried first through Social Security Cell / Woman N.G.Os. prior to registration of offence u/s ¾ of Prohibition of Dowry Act? If yes, (i) If yes, then do you think that the reconciliation should be recognized legally by the judiciary? (ii) Do your suggest any amendment in law to recognize the reconciliation prior to registration of F.I.R. u/s 3 &amp; 4 of Prohibition of Dowry Act., as no such provision exists in the law presently.</td>
<td>144</td>
<td>49</td>
<td>34</td>
<td>06</td>
</tr>
<tr>
<td></td>
<td>75%</td>
<td>25%</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td></td>
<td>121</td>
<td>72</td>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>63%</td>
<td>37%</td>
<td>75%</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>81</td>
<td>112</td>
<td>17</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>42%</td>
<td>58%</td>
<td>42%</td>
<td>58%</td>
</tr>
</tbody>
</table>
### Questions

[Total (742) questionnaires received out of (1000) distributed.]

<table>
<thead>
<tr>
<th>Field Officer (PSI / API / PI)</th>
<th>Supervisory P. Officers (Addl. DGP/IGP/DIGP/SP &amp; Dy.SP)</th>
<th>Legal Experts (Judges)</th>
<th>Public Prosecutors</th>
<th>Lawyers</th>
<th>Women Activists/N.G.Os.</th>
<th>Remarks Combine views</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>193</td>
<td>80</td>
<td>142</td>
<td>258</td>
<td>742</td>
</tr>
<tr>
<td>1 YES</td>
<td>2 NO</td>
<td>3 YES</td>
<td>4 NO</td>
<td>5 YES</td>
<td>6 NO</td>
<td>7 YES</td>
</tr>
</tbody>
</table>

8. Do you think that demanding, taking and giving dowry at the time of marriage is still going on freely without any deterrent effect of Prohibition of Dowry Act, 1961 due to customary recognition of this dowry practice by Society?

- 159 YES 34 NO 37 03
- 26 03 65 15 110 32 202 56 599 142
- 82% 18% 93% 7%
- 90% 10% 81% 19%
- 77% 23% 78% 22%
- 81% 19%

9. Do you agree that a complaint of accepting dowry is rarely lodged with Police, resulting into non-implementation of Prohibition of Dowry Act?

- 148 YES 45 NO 38 02
- 25 04 67 13 95 47 185 73 558 184
- 77% 23% 95% 5%
- 86% 14% 84% 16%
- 67% 33% 72% 28%
- 75% 25%

10. What could be the reasons for non-implementation of Prohibition of Dowry Act effectively?

- - - - - - - - - - - - - - -
D. Analysis / Comments

On information received through questionnaires on the provisions dealing with prohibition of dowry (giving, taking and demanding of dowry) u/s 3 and 4 of Prohibition of Dowry Act. 1961.

1) On the question at Sr.No.1: whether the provision of section 3 and 4 of Prohibition of Dowry Act are sufficiently strong enough to prevent dowry menace:

i) The combined positive replies are 68% (504 out of 742) with maximum positive replies from field-level Police Officers i.e. 80% (154 out of 193), followed by Judges-76%, Public Prosecutors-76%, Supervisory Police Officers-65%, Practising Lawyers 63% and 59% from Women Activists which indicate the present provisions are sufficient to prevent the dowry-related crimes.

ii) The combined negative replies are 32% (238 out of 742), with maximum negative replies of 41%, from Women Activists, followed by Lawyers 37% and 35% from Supervisory Police Officers. The combined positive replies are 68% only. On the basis of positive and negative replies, it indicates that the present provisions under Prohibition of Dowry Act are not sufficiently strong enough to prevent demand and taking of dowry as about 32% negative replies indicate that these provisions are not strong enough to prevent such offences.

iii) On suggestions: The researcher feels that the following suggestions need special attention:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. No, accused should be debarred from Govt. jobs, contesting elections and seeking public offices of profit.

ii. Act needs to be made more stringent at the same time its definitions and evidence should be made simpler.

From Field officers (PSI /API/PI)

i. People consider the practice of giving dowry as a routine part of life considering the question of life and future of their daughter.

ii. There are serious lacuna and loopholes in sec. 3 & 4 of D.P. Act, which though provide for minimum sentences of imprisonment and fine but does not lay down the upper limits or the maximum sentence of imprisonment and fine
(B) From Legal Experts:

Judges:

i. Awareness in the people can prohibit it, no body wants to lodge complaint for demand of dowry at the time or before settlement of marriage.

ii. It is always hidden act, no legal machinery can trap the incidence early, hence it is necessary to make the law more practical with its implementation.

iii. Amendment is necessary in the Act, by way of some drastic changes.

From Public Prosecutors:

i. The provision should be stronger and the punishment should be increased and more serious action to prohibit taking, giving and demand of dowry is felt necessary.

From Advocates:

i. Awareness of people about the provisions of prohibition of dowry act is necessary and giving education to people by holding legal knowledge awareness camps.

ii. But it is still ignored even by the upper strata of society under the pretext of customs and rituals.

(C) From women activists including N.G.Os.:

i. Modes of giving and taking dowry are decided in such a manner that prima-facie it is not considered as Dowry.

ii. Increase awareness of people about prohibition of dowry, through media and social workers, rationalists and Police Patils etc.

iii. Not strong, because there is no proof of taking and giving dowry when matter goes to the court.

2) On the question at Sr.No.2: whether the provisions are being used effectively:

i) The combined positive replies are 54% (399 out of 742) with maximum positive replies from field-level Police Officers i.e. 66%, followed by Public Prosecutors-61%, Women Activists-51%, Supervisory Police Officers 50% and 45% from Judges, which indicate that these provisions are being used effectively.

ii) The combined negative replies are 46% (343 out of 742) with maximum negative replies of 58% (82 out of 142) from Practising Lawyers, followed by Judges-55%, Supervisory Police Officers-50%, Women Activists 49% and 39% from Public Prosecutors which indicate that large number of persons feel that these provisions are not being used effectively. Indirectly, it suggests that there should be proper measures to make these provisions more effective in prevention of dowry menace.
iii) On suggestions: The researcher feels that the following suggestions need special attention:

(A) From Police Officers:

From Supervisory Police Officers (Dy. S.P. and above)
i. Mass education aligning with NGOs and conduction of workshops by using audio visual and print media.

From Field officers (PSI /API/PI)
i. Complainants do not come forward to lodge complaint.
ii. Though dowry is prohibited by law, it is accepted by the society & considering the life and future of daughter, people do not oppose it.
iii. People are not aware about this law. They should be made aware by giving large publicity of this law.
iv. Many I. O’s are yet not aware of this law and this law is not yet under regular use.
v. No one comes forward to lodge a complaint due to social bindings.

(B) From Legal Experts:

Judges:
i. There should be positive contribution from all branches of law enforcement and the judicial system in implementation of the provisions.

From Public Prosecutors:

i. Most of the people residing in villages still do not know about these provisions, hence the measures should be taken so that they will be aware of these provisions.
ii. Provisions are very strong enough but implementation is not effective. Separate cell to deal with these offences be established.

From Advocates:

i. Through various medias, public at large should be made aware about gravity of offence.
ii. Awareness in the society, the social mindset of considering brides side inferior should be totally changed.
iii. The Act should be amended and offence of giving of dowry be deleted and in place of this provision “compelled to give dowry” should be inserted in Act as person gives dowry because he is compelled to do so.
(C) From women activists including N.G.Os.:

i. Legal education of masses and especially the young generations studying in colleges. Educational/ Voluntary organizations can play a vital role.

ii. Provisions should be followed strictly, people must be ready to go to police station to give complaint against dowry, then it will be effective.

(D) From Researcher:

The researcher feels that the provisions are not being used effectively because of the following reasons:

i. Large number of people are not fully aware of these provisions, as is transpired through the questionnaires.

ii. Due to social acceptance to dowry, the people are reluctant to lodge the complaint.

iii. The parents are interested in the well-being of their daughter at in-law's place. Hence they are always reluctant to disclose the facts of giving dowry till something seriously happens adversely to their daughter like suicidal or dowry death.

iv. One advocate has very correctly suggested that the offence of giving dowry should be deleted and in place of this legal provisions, 'compelled to give dowry' should be substituted as parents give dowry only under compulsion to do so. The researcher strongly supports this suggestion.

3) On the question at Sr.No.3: On its use correctly:

i) The combined positive replies are 60% (443 out of 742) with maximum positive replies from field-level Police Officers i.e. 69%, followed by Supervisory Police Officers-65%, Public Prosecutors-64% and 60% (156 out of 258) from Women Activists which indicate that majority of persons feel that these provisions are being used correctly.

ii) The combined negative replies are 40% (299 out of 742) with maximum negative replies from Practising Lawyers i.e. 56% (80 out of 142), Judges 52% and 40% (102 out of 258) from Women Activists, which are indicative of the facts that these provisions are not being used correctly. It indirectly suggests that these provisions are being misused to a large extent, which will be examined in the next question.

iii) On suggestions: No specific suggestions are offered by any of the groups.

iv) On the question at Sr.No.4: On its misuse for involving every member of the husband's family:

i) The combined positive replies are 78%(576 out of 742) with maximum positive replies from Practising Lawyers i.e. 84% (119 out of 142),
followed by Public Prosecutors-81%, Judges-79%, 78% from Women Activists, field-level Police Officers 74% and 65% from Supervisory Officers. The above positive replies to such a large extent indicate that these provisions are being misused by the close relatives of the victim-woman for involving most of the members of husband's family.

ii) The combined negative replies are around 22% (166 out of 742) with maximum negative replies from Supervisory Police Officers i.e. 35%. About 22% of Women Activists have replied in negative way. These facts indicate that about 22% persons feel that these provisions are not being misused by the close relatives of the victim women.

iii) It is further transpired through questionnaires that these provisions are largely misused by the close relatives of the victim, as about 97% replies have supported this view. It is further transpired that it is misused by Police but to a little extent as only 3% replies have suggested the misuse by police.

iv) On suggestions: No specific suggestions from any of the groups.

5) On the question at Sr.No.5: On awareness of general public about these provisions: -

i) The combined positive replies are 57% (420 out of 742) with maximum positive replies from Supervisory Police Officers i.e. 75%(30 out of 40), followed by Public Prosecutors i.e. 63% (50 out of 80), Judges-59%, Women Activists-59% and 55% from field-level Police Officers which indirectly indicate that fairly large number of persons in society are not aware of these provisions.

ii) The combined negative replies are 43% (322 out of 742) with maximum negative replies from Practising Lawyers i.e. 55% (78 out of 142), 41% from both Judges & Women Activists which indicates that sizable population is not aware of these provisions.

iii) On Suggestions- The researcher feels the following suggestions need special considerations:-

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Awareness campaigns.

ii. Police can address college boys and girls, law colleges can hold workshops on this and public forum should focus on this issue so that public can prevent this evil practice.

From Field officers (PSI /API/PI)

i. Aware the general public through different social movements.

ii. Public awareness through NGOs and police-public relation

iii. Grampanchayat can play important role in educating people about these provisions.
(B) From Legal Experts:

Judges:

i. Media should be used extensively to depict the severe consequences of the offence.

ii. Legal seminars must be arranged in rural, remote and interior area. Also social institution and woman organizations must see the matter seriously and effectively.

From Public Prosecutors:

i. The relevant provisions of Law should be included in syllabus as compulsory subject, then only everyone will be aware of the provisions of law.

ii. People at large should be made aware that giving and taking dowry is illegal and this practice should be stopped.

iii. Along with the legal awareness camp, a new subject named as "General Introduction of Law" may be introduced in Higher Secondary Studies, but no examination of this subject be conducted or either grades be allotted instead of marks.

From Advocates:

i. The chapters on legal provisions on dowry should be included in the syllabus of the schools and colleges.

(C) From women activists including N.G.Os.:

i. Make the general public aware of these laws, through television, newspapers, dramas etc.

ii. Young generation should take oath to marry without dowry. They must be aware of these provisions.

iii. Awareness is more important. Social Organizations / Social Workers can play important role for awareness. Awareness should be among the college going girl / male students.

(D) From Researcher:

The researcher feels that the Dowry Prohibition Act, 1961 & its amendment in 1986 are still not effective in achieving the objectives of the legislature, rather it has failed in achieving the punitive and deterrent objects of Dowry Prohibition Act.

The Apex Court in another case - Vikas Vs. State of Rajasthan [AIR 2002 S.C.2830; (2002) 6 S.C.C. 728; 2002 S.C.C. (Cr.) 1508] held that the deep-rooted social evil requires to be controlled not only by the effective implementation of the Dowry Prohibition Act, 1961 but also by the society. The society has to find out the ways and means of controlling and combating this menace of receipt and payment of dowry.

6) On the question at Sr.No.6: whether the cases u/s 3 & 4 of Dowry Prohibition Act be brought under the perview of 'Lok-Adalat' for quick disposal with consent of both parties for reconciliation / uniting them together:

i) The combined positive replies are 79% (585 out of 742) with maximum positive replies from Women Activists i.e. 85% (222 out of 258); followed by field level Police Officers-82%, Lawyers-72%, Public Prosecutors-71%, Supervisory Police Officers i.e. 65%, and Judges-62% which indicate the supportive views to bring these cases under the perview of Lok-Adalat for betterment of both the parties through reconciliation.

ii) However, 21% negative replies are suggestive for not bringing these cases for reconciliation by Lok-Adalat. The maximum negative replies are from Judges i.e. 38%, followed by Supervisory Police Officers i.e. 35% and around 30% from both Public Prosecutors and Practising Lawyers, which suggest that these cases should not be dealt with by the Lok-Adalat but through regular judicial process.

iii) The researcher strongly feels that these cases be brought under the perview of Lok-Adalat with the consent of both the parties, basically with the object of reconciliation/uniting them together due to following reasons:

i. The basic objects of disposal of cases through Lok-Adalat will be reconciliation and allowing them to live together by sinking their differences.

ii. The disposal will be quick and that to with the consent of both the parties.

iii. It also saves the money and time of both parties.

iv. The disposal being with the consent of both the parties and through judicial officer, presiding over the 'Lok-Adalat', it has moral as well as legal binding which is quite helpful to sort the social issues like dowry.

v. Even, if the disposal has not achieved their compromise then, such cases will be dealt with by regular judicial process but there is no harm in trying for reconciliation through Lok-Adalat.
iv) On Suggestions: The researcher feels the following suggestions need special consideration.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. It can save the family if handled correctly & tactfully.

ii. By ensuring speedy trial and quick justice by Lok-Adalat, the sufferings of married women could be lessened to some extent.

From Field officers (PSI /API/PI)

i. If such cases are brought under Lok-Adalat then such act will not be effective.

ii. It will be effective & fruitful to both the parties.

iii. To avoid delay of judicial-process, summary-disposals through Lok-Adalat is the effective way of disposal of cases and therefore it is suggested that the Lok-Adalat should be conducted at least three to four times in a year.

iv. If the matter settles in Lok-Adalat, the legal provisions will not keep the impact on the mind of people.

v. By way of re-conciliation, the dispute can be settled amicably without any bitterness between parties without any pecuniary loss to them.

vi. The basic object of matrimonial law is first to reconcile the dispute between parties and Lok-Adalat is the fast remedy.

(B) From Legal Experts:

Judges:

i. No, it is a crime against society. Thus should not be allowed to be compromised.

ii. Any matter which is off throat of matrimonial disputes should be made compoundable with the permission of court for better prospectus of married life of couple.

From Public Prosecutors:

i. Offence to be made compoundable. Reconciliation should be allowed only in the event of uniting the spouse and not for separation.
ii. If, the cases u/s 3 and 4 of Prohibition of Dowry Act. be brought under Lok-Adalat, then it can weaken the serious nature of these provisions.

iii. Chances of reconciliation / uniting together is rare and if it is done, living together will not be successful and it will again ruin the life of women.

From Advocates:

i. Dowry is an old tradition and has become punitive in the recent yrs., therefore to maintain marriage institution, Act is necessary. Matters should be settled amicably as far as possible through 'Lok-Adalat'.

ii. Reconciliation through Lok-Adalat is the best solution to solve matrimonial problems, most of the times allegation are made in heat of moment for which the matter is reported to Police but once the offence is registered it is out of hand being not compoundable.

(C) From women activists including N.G.Os.:

i. Reconciliation is a system, which tries to bring both the parties at common decision in favour of both of them.

ii. Dowry is essentially a social evil and the solution of the same should not be left alone to Law.

iii. Such cases can be finalized within short period through Lok-Adalat. Also it saves money and time of both parties.

iv. Lok-Adalat means time management. There is benefit of time and money as well as satisfaction to both the parties, if such matters are brought under "Lok-Adalat".

v. These are the problems related with customs in the society and hence can be solved by "Lok-Adalat".

7) On the question at Sr.No.7: whether the reconciliation should be tried through Social Security Cell/Women NGOs prior to registration of offence u/s 3 and 4 of 'Dowry Prohibition Act': -

i) The combined positive replies are 76% (564 out of 742) with maximum positive replies from Women Activists i.e. 89% (229 out of 258), followed by Supervisory Police Officers 85% (34 out of 40), field-level Police Officers 75% and around 62% from Legal Experts including Judges, Public Prosecutors and Practising Lawyers. The maximum positive replies are from Women Activists i.e. 89%, Supervisory Police Officers- 85% and field-level Police Officers-75% which indicate that there should be sincere efforts first for reconciliation prior to registration of cases. However, Legal Experts seemed to be conservative for reconciliation through women NGOs before registration of cases as their overall replies are around 62% only.

ii) The combine negative replies are 21% with maximum negative replies from both Judges and Lawyers i.e. 38% and Public Prosecutors 36%,
which indicate some sort of reservation for reconciliation through Social Security Cell/Women NGOs before registration of cases under Dowry Prohibition Act.

However the Women Activists and Supervisory Police Officers have indicated negative replies of 11% and 15% respectively which indirectly support the reconciliation through Women NGOs before registration of cases under this Act.

iii) The Researcher supports the view of women activists and Supervisory Police Officers for making sincere efforts through Social Security Cell, which is practically attached to every Police Station in Maharashtra State or Women NGOs.

iv) On Sub-question 7(i): Whether the reconciliation should be recognised legally by the judiciary before registration of an offence under Dowry Prohibition Act:

i. The combined positive replies are 69% (513 out of 742); with maximum positive replies from Women Activists i.e. 81% (210 out of 258); followed by 75% from Supervisory Police Officers; Advocates-67%; field-level Police Officer-63%; Public Prosecutors-55% and 45% from Judges which indicate the overall substantial views that the reconciliation before registration of the offence u/s 3 and 4 of 'Dowry Prohibition Act' should be legally recognised by the judiciary.

ii. The combined negative replies are 31% (229 out of 742) with maximum negative replies from Judges i.e. 55% (16 out of 29); followed by Public Prosecutors-45%; field-level Police Officers-37%; Advocates-33%; Supervisory Police Officers-25% and 19% from Women Activists which indicate that the reconciliation before registered of offence u/s 3 and 4 of 'Dowry Prohibition Act' should not be legally recognised by the judiciary.

iii. From Researcher: Considering the positive and negative views, the researcher feels that the reconciliation through social security cell/women N.G.Os. should be recognised before registration of an offence under Dowry Prohibition Act by Judiciary.

v) On Sub-question 7(ii): On suggestion for amendment in Law to recognise the reconciliation prior to registration of FIR u/s 3 and 4 of 'Dowry Prohibition Act' as no such legal provision exists in the present Law:

i. The combined positive replies are 50% (369 out of 742); with maximum positive replies from Advocates i.e. 59% (153 out of 258); followed by Judges-52%; Advocates-48%, Public Prosecutors-44%; 42% from field-level Police Officers & Supervisory Police Officers which indicate that the necessary amendment should be made in law to recognise the reconciliation before registration of 3 and 4 of 'Dowry Prohibition Act'.

ii. The combined negative replies are 50% (373 out of 742) with maximum negative replies from field-level Police Officers & Supervisory Police Officers i.e. 58%; followed by Public
Prosecutors-56%; Advocates-52%; Judges-48% and 41% from Women Activists which indicate that there is no any need for amendment in Law to recognise such reconciliation through social security cell before registration of FIR u/s 498 (A) IPC.

iii. From Researcher: During present study, it is transpired that the registration of offences u/s 3 & 4 of Dowry Prohibition Act are negligible during the period from 1983 to 2004 from five districts of North-Maharashtra.

The positive views are 50% which does not indicate any majority. On the contrary, the negative views from both supervisory Police officers and field-level Police Officers are 58%, Public Prosecutors-56% and 52% from Advocates and 48% from Judges which indicate that there is no any need of amendment in law to recognise the reconciliation through Social Security Cell / women N.G.Os. prior to registration of an offence u/s 3 & 4 of Dowry Prohibition Act. Considering the substantial negative views and the negligible registration of offence u/s 3 & 4 of Dowry Prohibition Act, the researcher feels that there is no need of any amendment to recognise the reconciliation through Social Security Cell /women N.G.Os. before registration of an offence. On the contrary, the researcher feels that the people should be encouraged to lodge complaint under Dowry Prohibition Act in view of negligible registration of cases under Dowry Prohibition Act.

vi) On Suggestions: The researcher feels that following suggestions need special consideration.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. No, this is criminal act and must be dealt with legally.

From Field officers (PSI /API/PI)

No specific suggestions.

(B) From Legal Experts:

Judges:

i) If offence is proved, the conviction is only the remedy for avoiding further offences in the society.

From Public Prosecutors:

i. Reconciliation through NGO may be tried.

ii. Reconciliation should be tried first through women N.G.Os. prior to registration of case, though reconciliation should not be recognized legally.
From Advocates:

No specific suggestions.

(C) From women activists including N.G.Os.:

No specific suggestions.

8) On the question at Sr.No.8: On customary recognition to dowry in spite of Dowry Prohibition Act:

i) The combined positive replies are 81% (599 out of 742) with maximum positive replies from Supervisory Police Officers i.e. 93% (37 out of 40), followed by Judges-90%, field-level Police Officers-82%, 81% from Public Prosecutors and 78% from Women Activists which indicate that the taking and giving of dowry has customary recognition in spite of Dowry Prohibition Act.

ii) However, there are combined negative replies of 19% (143 out of 742) with maximum negative replies from Lawyers i.e. 23%, followed by Women Activists-22%, which indicate that there is no customary recognition to dowry system.

iii) The Researcher, based on his experience as Senior Supervisory Officer and facts transpired during the present study is of the view that dowry system has customary recognition in spite of enactment of Dowry Prohibition Act in 1961 which could be based on the finding that there are hardly any cases under Dowry Prohibition Act since 1983 till 2004 from all the five district of North Maharashtra. It is further transpired during study that the Dowry Prohibition Act is totally in-effective in prevention of taking or demanding dowry at the time of marriage.

iv) On suggestions: The researcher feels that following suggestions need special attention.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Awareness programmes be arranged, customs can be changed by Law like law has prevented Sati, Child Marriages to large extent.

ii. Mass education with involvement of N.G.Os.

From Field officers (PSI /API/PI)

i. Public awareness through NGOs and education.

ii. There is need of social awakening in a large scale regarding this law.

iii. Dowry is not spoken at the time of marriage but it comes on record when such types of offences are registered. This system has social acceptance.
(B) From Legal Experts:

Judges:

i. Empowerment of woman, where girl is financially sound, there is less demand of dowry, social awareness; social-religious reforms are the necessary steps.

From Public Prosecutors:

i. The social and legal education regarding provisions of law shall be essential from the aid of Govt. for implementation of Prohibition of Dowry Act. 1961.

ii. The Act should be widely published.

iii. Though the law provides for punishment, the punishment is not awarded in every case. Court should punish the accused severely.

From Advocates:

i. There should be awareness in public about the provisions of law, the system of society must be changed.

ii. Young peoples mentality should be changed and reforms be brought in their thinking.

(C) From women activists including N.G.Os.:

i. The social thinking should be changed. No law can work effectively in present circumstances.

ii. Practice of Dowry should be condemned openly. Those who involve in this act should not be allowed to occupy the prestigious positions in government and society.

iii. The young generation should be involved in the movement to eradicate this evil practice.

9) On the question at Sr.No 9: On non-lodging of complaint under Dowry Prohibition Act resulting into non-implementation of the Act:

i) The combined positive replies are 75% (558 out of 742) with maximum positive replies from Supervisory Police Officers i.e. 95% (38 out of 40), followed by Judges-86%, Public Prosecutors-84%, field-level Police Officers-77%, Women Activists-72% and 67% from Practising Lawyers which indicate that the people are very much reluctant to lodge the complaint under Dowry Prohibition Act which ultimately results into non-implementation of this Act.

ii) The combined negative replies are 25% with maximum negative replies from Practising Lawyers i.e. 33%, followed by Women Activists 28% and 23% from field-level Police Officers who do not agree with the majority view, as mentioned above. However, the positive replies of 95% from Supervisory Police Officers and 86% from Judges support
the fact that the people are generally reluctant to lodge the complaint under Dowry Prohibition Act which results into non-implementation of this Act which is further corroborated by the finding during study that there are hardly any cases of taking or demanding of dowry during the period from 1983 to 2004 from all five districts of North Maharashtra.

iii) On suggestions: The researcher feels that following suggestions need special consideration.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Dowry system is a social evil. Mere legislation cannot deter it. Mass education with involvement of NGOs and proactive role of concerned government machinery needs to be ensured.

From Field officers (PSI /API/PI)

i. Give wide publicity in newspaper, television, arrange work- shop in various villages.

(B) From Legal Experts:

Judges:

i. The general public should be made aware about these provisions. Secondly the proper treatment should be given to every informant/ complainant in police station when he/she comes to lodge the complaint / report.

ii. Public awareness is the only way, so long as dowry is treated, as symbol of status or pride, the implementation is difficult.

iii. Marriage should be made compulsorily registerable.

From Public Prosecutors:

i. Even police department is not aware of the provisions. Police are not taking these offences seriously.

ii. Only change in the mind of people and education to female may do this.

iii. But the complaints are not registered under the Dowry Prohibition Act by the investigating machinery.

From Advocates:

i. There should be awareness in public through social organizations.

ii. Customary recognition of dowry practice by society should be abandoned. The public awareness should be aroused.

iii. Police must register the offence and detailed enquiry be conducted.
(C) From women activists including N.G.Os.:

i. Brides and their parents / relatives should be encouraged to file cases. Sometimes Police do not register such cases. Failure on part of the police should be dealt with seriously.

ii. We should increase the awareness of this law in young generation and everyone including police should strictly follow provisions of Law.

iii. Special cell should be made to tackle such cases.

10) On the question at Sr.No 10: On reasons for non-implementation of Dowry Prohibition Act :

i) The researcher feels that the following measures mentioned by three different groups need special attention.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Social framework, secondary position of girls, woman in the society.

ii. To avoid ill treatment of daughters at the hands of in-laws, parents offer dowry without lodging the complaints initially.

iii. Many times, it is considered as a status symbol also.

From Field officers (PSI /API/PI)

i. People accept it as a custom, people consider the life of their daughter more important than money

ii. Victim party doesn’t want to lodge the complaint because the parents have fear that their daughter’s life will be spoiled.

iii. Today also it is accepted by society that dowry is an essential part. Parents are still preparing for dowry, right from birth of female child.

(B) From Legal Experts:

Judges:

i. Lack of knowledge of Law in general public. (ii) Procedure of the cases (Lengthy, difficult and expensive) (iii) Giving of Dowry being an offence, they are reluctant to lodge complaint of dowry.

ii. Less awareness about the laws. (ii) Lack of will to fight the evil of dowry. (iii) Society at large has recognized dowry as routine.
iii. Social recognition. (ii) Fear of communal boycott. (iii) Fear of daughter not getting suitable match in the community or not getting married.

From Public Prosecutors:

i. The bride's family members are helpless. They can't lodge any complaint regarding dowry.

ii. The women are always treated as secondary to men in society.

iii. Cases of this nature are registered very rarely. Police are not having enough knowledge. Public's awareness on this issue is very poor. Customary hurdles are there.

iv. The Indian social culture, traditions and customs play vital role in Non-implementation of Prohibition of Dowry Act effectively.

v. As the person-giving dowry is also made punishable, therefore when the person lodge the complaint of taking dowry at the same time, he becomes accused as he has given dowry and hence avoids complaining.

From Advocates:

i. If dowry is denied the marriage of daughter with well-educated person becomes impossible sometimes.

ii. Due to the social system people do not come forward to lodge complaint.

iii. Parents give dowry for the sake of betterment of the life of the daughter and do not complain against their son-in-law until anything happens. So it cannot be implemented effectively.

iv. Male-dominated culture in the society, due to fear of dissolution of marital relation. Women are not self-dependent for their livelihood.

(C) From women activists including N.G.Os.:

i. Both parties are ready, since it has become status symbol. (ii) It is taken as a social ritual.

ii. (i) Social problem. Parents of the bride are afraid of that her in-laws would trouble their daughter. (ii) They think it is our social custom (iii) To avoid unnecessary harassment.

iii. Parents feel that their daughter will be happy and be treated well if they give dowry. Some parents want to give a share to their daughters. Some parents think as part of duty.
## (E) On provisions, dealing with Rape and Custodial Rape/Gang Rape.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td>Field Officer (PSI / API / PI)</td>
<td>Supervisory P. Officers (Addl. DGP / IGP / DIGP / SP &amp; Dy. S.P)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
<tr>
<td>1. Do you consider the legal provisions for dealing with Rape and Custodial Rape are sufficiently strong enough to prevent the offences of Rape and Custodial Rape?</td>
<td>182 yes</td>
<td>11 no</td>
<td>36 yes</td>
<td>4 no</td>
</tr>
<tr>
<td></td>
<td>94% yes</td>
<td>6% no</td>
<td>90% yes</td>
<td>10% no</td>
</tr>
<tr>
<td>2. Do you consider that these provisions are used effectively?</td>
<td>174 yes</td>
<td>19 no</td>
<td>34 yes</td>
<td>6 no</td>
</tr>
<tr>
<td></td>
<td>90% yes</td>
<td>10% no</td>
<td>85% yes</td>
<td>15% no</td>
</tr>
<tr>
<td>3. Do you think that the general public are well aware of these provisions?</td>
<td>163 yes</td>
<td>30 no</td>
<td>35 yes</td>
<td>5 no</td>
</tr>
<tr>
<td></td>
<td>84% yes</td>
<td>16% no</td>
<td>87% yes</td>
<td>13% no</td>
</tr>
<tr>
<td>4. Do you consider that only Woman judges should try the cases of rape?</td>
<td>132 yes</td>
<td>61 no</td>
<td>20 yes</td>
<td>20 no</td>
</tr>
<tr>
<td></td>
<td>68% yes</td>
<td>32% no</td>
<td>50% yes</td>
<td>50% no</td>
</tr>
<tr>
<td>5. Due to different nature of the rape cases, do your suggest any changes in Evidence Act</td>
<td>92 yes</td>
<td>101 no</td>
<td>19 yes</td>
<td>21 no</td>
</tr>
<tr>
<td></td>
<td>48% yes</td>
<td>52% no</td>
<td>47% yes</td>
<td>53% no</td>
</tr>
<tr>
<td>6. Do you consider that the victim of rape cases be given compensation by the state which will be recoverable from the property of the accused.</td>
<td>160 yes</td>
<td>33 no</td>
<td>33 yes</td>
<td>7 no</td>
</tr>
<tr>
<td></td>
<td>83% yes</td>
<td>17% no</td>
<td>82% yes</td>
<td>18% no</td>
</tr>
<tr>
<td>Questions</td>
<td>Police Officers</td>
<td>Legal Experts</td>
<td>Women Activists /N.G.Os.</td>
<td>Remarks Combine views</td>
</tr>
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<tr>
<td></td>
<td>Field Officer (FSI / API / PI)</td>
<td>Supervisory P. Officers (Addl. DGP/ IGP/ DIGP/ SP &amp; Dy. S.P.)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
<tr>
<td></td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>1. Views on “Death Penalty” to accused on conviction of rape u/s 376(1) IPC.</td>
<td>137</td>
<td>56</td>
<td>23</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>159</td>
<td>32</td>
<td>25</td>
<td>15</td>
</tr>
</tbody>
</table>

Do your consider that the punishment of death should be inflicted on the accused or rape (Except custodial & gang rape) when an offence of rape has been proved against the accused u/s 376(1) IPC.
<table>
<thead>
<tr>
<th>Questions</th>
<th>Police Officers</th>
<th>Legal Experts</th>
<th>Women Activists /N.G.Os.</th>
<th>Remarks Combine views</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Total (742) questionnaires received out of (1000) distributed.]</td>
<td>Field Officer (PSI / AFI / PI)</td>
<td>Supervisory P. Officers (Addl. DGP/ IGP/ DIGP/ SP &amp; Dy. S.P)</td>
<td>Judges</td>
<td>Public Prosecutors</td>
</tr>
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<tr>
<td>9. Views on &quot;Death Penalty&quot; to accused on conviction of gang rape &amp; custodial rape u/s 376(2) IPC.</td>
<td><strong>193</strong></td>
<td><strong>40</strong></td>
<td><strong>29</strong></td>
<td><strong>80</strong></td>
</tr>
<tr>
<td></td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
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<td></td>
<td><strong>150</strong></td>
<td><strong>43</strong></td>
<td><strong>24</strong></td>
<td><strong>16</strong></td>
</tr>
<tr>
<td></td>
<td>78%</td>
<td>22%</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Do your consider that the punishment of death should be inflicted on the accused or custodial rape &amp; gang rape when an offence of custodial &amp; gang rape has been proved against the accused u/s 376(2) IPC.</td>
<td></td>
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</tbody>
</table>
E. Analysis / Comments

On information, received through questionnaires on the provisions, dealing with Rape and Custodial Rape & Gang Rape.

1) On the question at Sr.No.1: whether the present provision are sufficiently strong enough to prevent the offences of rape and custodial & gang rape:

i) The combined positive replies are 77% (574 out of 742) with maximum positive replies from field-level Police Officers i.e. 94% (182 out of 193); followed by Supervisory Police Officers-90% (36 out of 40); Public Prosecutors-81%, Judges-79%, Practising Lawyers-71% and 65% from Women Activists. The positive replies except from Police Officers indicate that there is a scope for making these provisions further strong as their positive replies are confined to around 65% to 80% only.

ii) The combined negative replies are 23% (168 out of 742), with maximum negative replies from Women Activists i.e. 35% (167 out of 258); followed by Lawyers-29%, Judges-21%, Public Prosecutors-19% and 10% from Supervisory Police Officers. The negative replies except from Police Officers indicate that the present provisions are not sufficiently strong enough to prevent the crime of rape and custodial & gang rape.

iii) On suggestions: The researcher feels that the following suggestions need special considerations:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. These strong provisions do not seem to have prevented happening of such offences. Quick trial of accused, protection to victim may be some of the steps to be taken, as this will go a long way to prevent such offence.

From Field officers (PSI /API/PI)

i. Rape is very inhuman act and it should be punished rigorously and the punishment awarded should be high and maximum which should cause apprehension in the mind of people.

(B) From Legal Experts:

Judges:

i. Severe punishment like sterilization in addition to imprisonment and fine should be given to such type of person.
From Public Prosecutors:

i. Separate wing for dealing the woman be established and only lady officers and other ladies staff required to appointed.

ii. The cases to large extent are ended in acquittal because of medical evidence against prosecution, victim should come forward to lodge FIR against the accused quickly.

From Advocates:

No specific suggestions.

(C) From women activists including N.G.Os.:

i. Immediate punishment should be given so that fear about law can prevent such cases.

ii. The punishment for rape is not sufficient, as it is not able to create threat in the minds of the anti-social males. Such people easily destroy the evidences.

2) On the question at Sr.No.2: on its use effectively:

i) The combined positive replies are 73% (542 out of 742) with maximum positive replies from field-level Police Officers i.e. 90% (174 out of 193), followed by Supervisory Police Officers-85%, Public Prosecutors-80%, Judges-65%, Women Activists-65% and 58% from the Lawyers. The positive replies from all the groups except Police Officers indicate that these provisions are not effectively used.

ii) The combined negative replies are 27% (200 out of 742) with maximum negative replies from Lawyers i.e. 42%; followed by both Judges and Women Activists i.e. 35%; Public Prosecutors 20% and Supervisory Police Officers- 85% which indicate that the present legal provisions are not sufficiently strong enough to prevent the crime of rape and custodial & gang rape.

iii) On suggestions: The researcher feels that the following suggestions need special attention to make the provisions more effective:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. The victims are not forthcoming. The victims fear needs to be done away with. The witness (if any) needs to be assured of protection.

From Field officers (PSI /API/PI)

i. To protect the witness and the collect real evidence against the accused.

ii. And more over, the inquisitorial system should be applied.
(B) From Legal Experts:

Judges:

i. More security will have to be offered to raped victim. Further legal protection needs to be enlarged to overcome the rape victim from such offences in general public.

ii. The accused should be made to prove his innocence also.

From Public Prosecutors:

i. The custodian rape complaint is always hidden by the police, because they are the real culprits so, public should be made aware for effective dealing with rape and custodian rape.

ii. Investigation authority needs to be more alert, lady officer must investigate preferably. Medical evidence should be collected.

From Advocates:

i. Eyewitness is required for the proof of the offence and it is not possible in each case so the judiciary must be presume the offence.

ii. It is very sensitive issue. It is very heinous act so punishment should be severe. It should be primitive just like Muslim countries i.e. amputation of body organs.

(C) From women activists including N.G.Os.:

i. Immediate arrest of the accused with immediate physical examination and proper test should be taken of both accused and the victim.

ii. Punishment should be rigorous so that others do not dare to commit such crimes.

iii. Legislation for effective punishment is must and people should know about such amended Laws.

3) On the question at Sr.No.3: on the awareness of general public about these legal provisions:

i) The combined positive replies are 72% (532 out of 742) with maximum positive replies from Supervisory Police Officers i.e. 87% (35 out of 40); followed by field-level Police Officers-84%, Public Prosecutors-81%, Judges-69%, Women Activists-64%, and 61% from Lawyers, which indicate that large number of general public i.e. around 30% are still unaware of these legal provisions.

ii) The combined negative replies are 28% (207 out of 742) with maximum negative replies from Practising Lawyers i.e. 39%, followed by 36% from Women Activists and 31% from Judges which indicate that large number of general public are not aware of these legal provisions.
On suggestions: The researcher feels that the following suggestions need special considerations to make the general public aware of these provisions.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Close watch over investigation, helping victim psychologically to pull through, educating witness may also be done.

From Field officers (PSI /API/PI)

i. Public awareness through advertisement on T.V., News Papers campaigning in school and colleges.

ii. Within 24 to 74 hrs. the presence of semen gets vanished from the private part of body. Therefore it is essential to medically examine the victim within 24 hrs. without any delay.

(B) From Legal Experts:

Judges-

i. By arranging camps on law subjects. Inclusion of Law subjects in High Schools. Publication of books on Law in Marathi in Maharashtra and in state language of each state in India.

ii. Media, Newspaper and publishing the provision on leaflets and distributing them along with the household items. Road shows, street-plays, mock trials, questionnaire etc. are some of the effective measures.

iii. Social institution and other women’s organizations must be suggested to make propaganda in the society more effectively, also seminars must be arranged.

Public Prosecutors:

i. General public should be aware through books, print media, T.V.Radio etc ii) Public shows on street to make the general public aware about the provisions of law.

ii. Educate the people with latest legal provisions and for that purpose take help of police, court and NGOs, Lions and Rotary clubs.

Advocates-

i. The victim woman receives apathy, hatred, embarrassment and vulgar remarks. This should be avoided.

(C) From women activists including N.G.Os.:

i. More awareness is required through social organizations. The police should play effective role.
ii. The punishment given under such law should be given more publicity.

iii. Role of N.G.Os. of womens is very impartment and can be a great help to the government. (ii) Media should take active part for awareness of these provisions to general public.

iv. In school, public places, newspapers, television and through seminars we should give information about the provisions and use of such laws.

8) On the question at Sr.No.4: On trial of rape cases by only women judges:

i) The combined positive replies are 54% (404 out of 742) with maximum positive replies from field-level Police Officers i.e. 68% (132 out of 193); followed by women activists-62% (160 out of 258); Supervisory Police Officers-50%, 37% from both-Public Prosecutors and Practising Lawyers and 31% from Judges. The Positive replies are more from Police Officers and Women Activists, which suggest the trial of rape cases by Women Judges. However, the positive replies from legal experts are not supportive to above suggestion.

ii) The combined negative replies are 46% (338 out of 742); with maximum negative replies from Judges i.e. 69% (20 out of 29); followed by Public Prosecutor-63%, Lawyers-63%, Supervisory Police Officers-50%, Women Activists-38% and 32% from field-level Police Officers which indicate that there is no need to try the cases of rape only by women Judges. It further indicates that no discrimination of Judges be made on sex basis. Judges irrespective of their sex are always neutral and impartial.

iii) On suggestions: The researcher feels that the following suggestions need special considerations to make the general public aware of these provisions:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

No specific suggestions.

From Field officers (PSI /API/PI)

No specific suggestions.

(B) From Legal Experts:

Judges:

i. No, this question is highly objectionable one. Because it is an allegation on the male judges. Judge is a judge. Judge is neutral and decides matter on evidence brought on record.
Public Prosecutors:

No specific suggestions.

Advocates:

i. In camera trial by lady judge and lady advocate.

(C) From women activists including N.G.Os.:

i. Yes. Because the women judges can understand well the feeling of that women or girl.

(D) From Researcher:

Considering the positive and negative replies, the researcher feels that it should not be made mandatory to try the cases of rape by women judges. However it is suggested that whenever it is possible then rape cases be tried by women judges as the victim will feel more comfortable in disclosing the facts of rape to women judges. But it should not be made as a statutory rule as the male judges are equally sensitized for women’s problems.

Trial by fast-track court:

The researcher further suggests that the rape cases be tried by fast-track court so that the disposal will be quick. This should be made as a statutory rule, which will help in ensuring justice to victim quickly.

5) On the question at Sr.No.5: On suggestion for any changes in Indian Evidence Act:

i) The combined positive replies are 49% (363 out of 742) with maximum positive replies from women activists i.e. 58% (149 out of 258); followed by 48% from both Practising Advocates and field-level Police Officers; Supervisory Police Officers 47%; Judges-38%, and 29% from Public Prosecutors which suggests the changes in Indian Evidence Act.

ii) The combined negative replies are 51% (379 out of 742) with maximum negative replies from Public Prosecutors i.e. 71%, followed by Judges 62%, Practising Lawyers 52%, Women Activists 42% and around 52% Police Officers which indicates that there is no need of any changes in Indian Evidence Act though the crime of rape is of different nature from other crimes.

iii) On suggestions: The researcher feels that the following suggestions need special consideration.
(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

No specific suggestions.

From Field officers (PSI /API/PI)

No specific suggestions.

(B) From Legal Experts:

Judges:

i. The evidence lead by representative machinery on behalf of victim should also be allowed to some extent.

Public Prosecutors:

i. Only implementation of the provisions honestly by I.O. is sufficient along with the evidence of Police authority should be believed.

ii. In rape cases burden should be on accused and not on prosecution.

Advocates:

No specific suggestions.

(C) From women activists including N.G.Os:

i. The investigations should be done by lady police officers and camera trial is essential.

ii. The environment should be such that the girl or woman who has been raped should be able to speak the truth.

iii. Special Courts should be formed for trial of such cases.

(D) From Researcher:

The researcher supports the view of one Public Prosecutor that the evidence of Police should be believed i.e. the confessional statement made before Police Officer should be made admissible in the count as presently such statement made before the Police Officer is not admissible in court as evidence unless it leads to recovery under section 27 of Indian Evidence Act. The researcher suggests that the confessional statement made by the accused before the Police Officer of the rank of Deputy Superintendent of Police should be made admissible in court by way of amendment in Indian Evidence Act in cases of rape u/s 376(1), custodial and gang rape u/s 376(2), dowry death u/s 304(B) and abetment to commit suicide u/s 306 r/w 498A IPC as the chances of direct evidence are very less in such cases due to different nature of these crimes from other type of crimes.
6) On the question at Sr.No.6: On awarding compensation to victim from the State which will be recoverable from the property of accused:

i) The combined positive replies are 83% (617 out of 742) with maximum replies from Public Prosecutors i.e. 85% (69 out of 80); followed by Practising Advocates-84%, Judges and field-level Police Officers both 83% and 82% from both Supervisory Police Officers and Women Activists which support that the compensation should be given to the victim from the property of accused. The positive replies are around 83% from almost all the groups which strongly support the above view of compensation to victim.

ii) The combined negative replies are 17% (125 out of 742) with maximum negative replies from both Women Activists and Supervisory Police Officers and around 15% form all the groups which indicate that there is no need to award compensation to the victim of rape from the property of the accused.

iii) The Researcher strongly supports the positive views of awarding compensation to the victim by the State, which is recoverable from the property of the accused. It is pertinent to mention here that the Hon’ble Apex Court and many High Courts have awarded compensation to the victim of rape from the accused though there are no any specific statutory provisions presently in the Act. Hence, the researcher further suggests that the legal provisions u/s 376(1) and 376(2) IPC be suitably amended, making it mandatory for awarding compensation to the victim of rape from the property of the accused.

iv) On suggestions: The researcher feels that the following suggestions need special attention.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

No specific suggestions.

From Field officers (PSI /API/PI)

i. Yes, But it should be given after proving the case.

(B) From Legal Experts:

Judges:

i. If the accused does not have property, then state should be made liable to pay compensation.

Public Prosecutors:

No specific suggestions.

Advocates-

No specific suggestions.
(C) From women activists including N.G.Os:

i. Yes also per month compensation is given to the victim lady from the accused.

ii. Yes but her cry and suffering does not stop just by some amount of Rupees, rehabilitation is more important.

7) On the question at Sr.No.7: views on 'Death Penalty' to accused on conviction in rape u/s 376(1) IPC:

i) The combined positive replies are 67% (501 out of 742); with maximum positive replies from Women Activists i.e. 74% (190 out of 258); followed by 71% both from Public Prosecutor and field-level Police Officers; Practising Lawyers-61%, Supervisory Police Officers-57% and the least from Judges i.e. 24% which indicate the mixed type of views on death penalty in rape cases though the positive replies are more than 60% from the groups except Judges (24%).

ii) The combined negative replies are 33% (241 out of 742) with maximum negative replies from Judges i.e. 76% (22 out of 29); followed by Supervisory Police Officers i.e. 43% and Practising Lawyers i.e. 39% which indicate that fairly a large number of replies are not supportive to capital punishment in rape cases.

iii) On Suggestion: The researcher feels that the following suggestions need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above).

i. It will be deterrent.

ii. Nature of punishment (death) is not commensurate with the nature of crime. The amendment in sec. 376 are strong enough.

From Field officers (PSI /API/PI)

i. Only fear of punishment of death in rape cases u/s 376 (1) will curb this offence which is committed inhumanly and mercilessly on any age of women.

ii. No, many times, the sexual relations are maintained with mutual consent and the offences are registered after other disputes.

(B) From Legal Experts:

Judges:

i. Considering nature of the rape, present punishment u/s 376(1) of I.P.C. is sufficient. Because, gravity of the offence should be considered while providing punishment.

ii. If death punishment is prescribed, the rate of acquittal would be increased. Instead of death punishment, the accused should be sterilized irreparably with imprisonment and fine.
iii. Present system of law passing death penalty in rarest of rare case is logical. If rape is coupled with murder than death penalty can be suggested.

Public Prosecutors:

i. Rape is serious offence, first the woman's life is destroyed and the society looks at her in distressed manner so the accused should be sentenced to death.

ii. Death penalty be imposed on all types of rape cases mentioned in 376(1).

iii. No, because the aim of all punishment is and ought to be to reform the criminals. Hate the crime and not the criminal.

iv. Yes, the impact of court Judgment is wide and it goes up to the root of society. Because of death penalty, nobody will dare to commit such serious offence.

Advocates:

i. Yes, because her whole life is spoiled and she receives pains and agony while living in society.

ii. Yes, considering the unsatisfactory performance of criminal law system and realizing the unimaginable trauma of degradation and humiliation of victim of rape, the death penalty is suggested.

(C) From women activists including N.G.Os.:

i. Yes, it will definitely have impact on others involving in such a heinous crime.

ii. Death penalty is inhumanity. Sufficient punishment is life time imprisonment.

iii. Death punishment is not warranted unless the offence of rape is with murder.

iv. Yes, the woman looses her moral, social character and her life is miserable. A threat has to be developed in the minds of antisocial males.

(D) From Researcher:

The researcher does not support the view of 'death penalty'. However if it is a rape with murder, then 'death penalty' shall be made as mandatory punishment considering such case as rarest of rare cases

8) On the question at Sr.No.8: views on 'Death Penalty' to accused on conviction in rape on girl below 10 yrs. of age:

i) The combined positive replies are 68% (503 out of 742); with maximum positive replies from Public Prosecutors i.e. 95% (76 out of 80); followed by field-level Police officers-83%, Woman Activists-81%; Practising Lawyers-79%. Judges-69% and 62% from Supervisory Police Officers. The majority of persons from all the groups have supported
the view of 'death penalty' to the accused on conviction in rape on girl below 10 yrs. of age. The Public Prosecutors have gone to the extent of 95% (76 out of 80) in suggesting death penalty in such cases, followed by substantial majority i.e. around 80% from Women Activists (81%), field-level of Police Officers-83%, Women Activists i.e. 74% (190 out of 258); followed by 71% both from Public Prosecutor and field-level Police Officers 83% and Practising Lawyers 79%.

ii) The combined negative replies are 32% (137 out of 742) with maximum negative replies from Supervisory Police Officers i.e. 38%, followed by Judges i.e. 31% which indicate the negative view on death penalty in cases of rape on girl below 10 yrs of age.

iii) On suggestion: The researcher feels that the following suggestions need special consideration:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above).

i. Amendments brought in 1983 u/s 376 (2) a,b,c,d,e,f,g are strong enough. If the child dies due to rape, the Judge may consider imposing capital punishment.

ii. Basically rape is a serious violation of human dignity. In the case of a rape of girl below 10 years. It would be a crime heinous enough to merit capital punishment.

From Field officers (PSI /API/PI)

i. It is very brutal, heinous and inhuman act. This kind of people are always dangers for the society, they can never be excused or sympathized.

(B) From Legal Experts:

Judges:

i. The rape of the girl below 10 yrs. Of age is really most heinous crime and such kind of offenders should be dealt with death penalty.

ii. It would not serve the purpose; sterilization operation of irreparable nature of the accused would be more effective.

Public Prosecutors:

i. If death penalty is given, no body can dare to commit such offence.

Advocates-

i. Amputation of body organs will serve the purpose which will be punitive as well as deterrent to society.
ii. Yes, as rape on girl-child is heinous social crime as a rapist degrades the very soul of the helpless female, as rape is a crime against the entire society.

iii. This would be the most heinous of all as it is women are unsafe in society.

(C) From women activists including N.G.Os.:

i. Yes, because it spoils the life of budding child which is one of the most inhuman crime.

ii. Yes, rape of a girl child of 5-10 yrs. leaves very horrible impression on the mind of child. Further the attitude of society towards her makes her life unbearable and the only choice that remainns with her is to embrace death.

(D) From Researcher:

The researcher noticed during the present study that the girls of 5 to 7 years of age have been raped mercilessly by the accused of prudence age, and hence such rape should be treated as the rarest of the rare cases of rape. Hence the researcher feels that the ‘death penalty’ should be provided along with the imprisonment for life, and let the discretion be exercised by the trial Judge to decide the quantum of punishment including that of ‘death penalty’. Hence the researcher suggests the necessary amendment in section 376 IPC for incorporating the additional provisions of ‘death penalty’ alongwith present provision of imprisonment up to life in case of rape on girl below 10 yrs. of age.

9) On the question at Sr.No.9: views on ‘Death Penalty’ in gang rape and custodial rape cases u/s 376(2) IPC. :

i) The combined positive replies are 77% (571 out of 742); with maximum positive replies are Public Prosecutors i.e. 89% (71 out of 80); followed by Women Activists-79%, field-level Police Officers-78%, Advocates-74%, Supervisory Police Officers-60% and Judges 59%, which indicate the death penalty in gang & custodial rape cases.

ii) The combined negative replies are 23% (171 out of 742) with maximum negative replies from Judges i.e. 41%, followed by Supervisory Police Officers i.e. 40%; Practising Lawyers i.e. 74% and Women Activists-21% which indicate that there is no necessity of death penalty in gang & custodial rape cases.

iii) On suggestion: The researcher feels that the following suggestions need special attention:

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above).

i. Yes, for deterrent effect.
ii. The amendments brought in u/s 376(2) IPC is strong enough where minimum punishment is 10 years and maximum punishment in life imprisonment to each accused.

**From Field officers (PSI /API/PI)**

i. Each act should be analyzed properly and caution should be taken that no innocent is convicted.

**(B) From Legal Experts:**

**Judges:**

i. Yes, the gang rape and custodial rape are also most heinous, pre-planned crimes.

ii. The accused in such cases are very much body conscious. If threat of sterilization is there they think twice before committing the offence and it would be a preventive measure.

**Public Prosecutors:**

i. Rape is heinous crime and accused should be sentenced to death.

ii. In order to eradicate the offence of rape severe punishment is essential. In Muslim dominated countries such offences are very rare because of such severe punishment.

iii. If such punishment is given, the people in the society will fear and such offences will be prevented to some extent.

iv. Yes, in case of such an offence the punishment of emasculation than death should be inflicted.

**Advocates**

i. Yes, it is also very heinous offence taking disadvantage of a person who is a woman and naturally weak.

ii. Yes, but it should be minutely observed that guilt should be proved beyond doubt and innocent should not be suffered.

**(C) From women activists including N.G.Os.:**

i. This is very dangerous crime, Death penalty in such cases will prove to be very effective way of deterrent.

ii. Yes, the act is very heinous and no word can describe it properly of its vice. Nature of gang rape is more cruel.
(F) Soliciting views on other relevant matters: whether trial of cases by women judges.

<table>
<thead>
<tr>
<th>Questions</th>
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<td>Judges</td>
<td>Public Prosecutors</td>
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<td>F</td>
<td>Do you consider that the cases of (i) ill-treatment u/s 498 (A) r/w 306 IPC, (iii) dowry death u/s 304 (B) IPC, (iv) murder for dowry (302 /304 B IPC), (v) cases under Dowry Prohibition Act, and (vi) rape cases u/s 376 (1) &amp; (2) IPC should be tried by women judges?</td>
<td>130</td>
<td>63</td>
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<td>67%</td>
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Note: Blue for positive and Red for negative replies.
F. Analysis / Comments.

On the views: whether cases of marriage and sex related crime against women should be tried by women judges.

i) The combined positive replies are 51% (381 out of 742) with maximum positive replies from Public Prosecutors i.e. 71% (57 out of 80); followed by field-level Police Officers-67%, Women Actisits-50% (129 out of 258); Practising Lawers-37% and 32% from Supervisory Police Officers which indicate that such cases of atrocities on women should be tried by women judges.

ii) The combined negative replies are 49% (361 out of 742), with maximum negative replies from Judges i.e. 100%; followed by Supervisory Police Officers-68%; Practising Lawers-63% (90 out of 142); Women Actisits-50% and 29% from Public Prosecutors which indicate that such cases of atrocities on women are not necessarily be tried by women Judges.

iii) On suggestions: The researcher feels that the following suggestions need special consideration.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Not necessary.

ii. India does not have many women judges to try. Secondly profession knows no sex. Judge should be sympathetic, knowledgeable and fair and sensitized with women problem.

From Field officers (PSI /API/PI)

i. Such type of discrimination is not allowed by the Constitution of India especially in our judiciary. It is not fair in the eyes of law.

ii. Conviction rate may increase but I am afraid, woman judges may become emotional while dealing with merits and demerits of cases.

iii. If we insist on woman judges, the matter will be delayed due to non availability of woman judges and so they will not get justice.

iv. Yes, Because problems of woman generally be very well understood by woman judges.

v. Yes, Special Courts should be formed for trial of such cases. Women Judge should be appointed for trial of such cases for speedy disposal.

(B) From Legal Experts:

Judges:

i. Trial of such cases shall be by Spl. Judges.
ii. Judge is a Judge, judge can't be different on being a woman or a man. Judge decides a case on the evidence brought on record.

iii. The victim will speak out without fear or shame before the lady judge.

**From Public Prosecutors:**

i. She is able to interpret the words honestly. Woman judges have the angle to give weightage/ evidential value to each and every part of the case. She can understand the emotions of the victim. She can give moral support to the victim.

ii. The suggestion of trial of such cases by women judges is against the basic principle of judiciary.

iii. Judges, may be men or women, if are sensitive enough to consider the feeling of the concerned persons shall suffice the purpose of trial.

iv. In my experience, male judges have a certain attitude, presupposing some wrong convictions, they are liberal towards accused. On the other hand Lady judge can well understand the feeling of the prosecutions.

v. The woman judges can naturally appreciate the feeling and evidence given by the victim.

vi. The woman judges can understand the emotions of the victim woman. They can give the strong punishment due to better understanding of woman’s problems and feelings.

vii. It just might prejudice the mind of a lady judge. It could be fatal in cases of innocent victims. Justice also needs to be transparent.

**From Advocates:**

i. Men judges are also fully capable and impartial.

ii. When you are sitting as a judge, your gender has nothing to do with thought process and he has to be impartial.

**(C) From women activists including N.G.Os.:**

i. A woman can understand the situation of rape better than man.

ii. Victim women can be more comfortable to explain to women judges.

iii. Many times, women are shy and timid and are not able to speak freely in front of male judge.

iv. Yes, These cases should be tried by the lady judges, because women can freely depose to lady Judges.

v. Except rape cases, other cases be tried by male or woman Judges.
(D) From Researcher-

Considering the positive (51%) and negative (49%) views, the researcher feels that all the cases of atrocities on women (all marriage and sex-related cases) are not required to be tried by women judges but as suggested by many persons from all the groups, the cases of rape u/s 376(1) and custodial & gang rape u/s 376(2) to the possible extent should be tried by women judges as the victim of rape will feel more comfortable and speaks more frankly before women judge rather male-judge but it should not be made as mandatory legal requirement.

Suggestion for trial by fast track court: The researcher feels that the cases of abetment to commit suicide u/s 306 r/w 498 (A) IPC (i) dowry death u/s 304 (B) IPC and (ii) rape cases u/s 376 (1) & (2) IPC should be tried by fast-track Court for speedy disposal.
(G) Pertaining to other offences of sexual intercourse u/s 376 (B), 376 (C) & 376(D) IPC when sexual intercourse due to consent does not amount to rape u/s 376 (1) IPC

<table>
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<tbody>
<tr>
<td>1. Are you aware that there is a provision of sexual offences, though with consent, being committed on the woman serving as public servant or in Jail / Remand Home or in Hospital by taking advantage of official position as public servant, or as Supdt. of Jail / Remand Home or by any member of management or staff of a hospital under above sections of IPC?</td>
<td>174</td>
<td>19</td>
<td>36</td>
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<td>27</td>
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<td>75%</td>
<td>25%</td>
<td>83%</td>
<td>17</td>
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<td>2. Have you noticed any such offence of aforesaid nature?</td>
<td>61</td>
<td>132</td>
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<td>30</td>
<td>6</td>
<td>23</td>
<td>24</td>
<td>56</td>
<td>77</td>
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<td>45%</td>
<td>43%</td>
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<tr>
<td>3. Do you think that the people are aware of these types of particular offences?</td>
<td>132</td>
<td>61</td>
<td>28</td>
<td>12</td>
<td>10</td>
<td>19</td>
<td>43</td>
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<td>40%</td>
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<tr>
<td>4. Have you came across any woman who is the victim of such offence but has not lodged the complaint to Police or has lodged the complaint but no cognizance has been taken by the Police?</td>
<td>35</td>
<td>158</td>
<td>6</td>
<td>34</td>
<td>-</td>
<td>29</td>
<td>10</td>
<td>70</td>
<td>43</td>
<td>99</td>
<td>101</td>
<td>157</td>
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<td>70%</td>
<td>39%</td>
<td>61%</td>
<td>26%</td>
<td>74</td>
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</tbody>
</table>

Note: Blue for positive and Red for negative replies.
G. Analysis / Comments.

On other offences of sexual intercourse u/s 376(B), 376(C) and 376(D) IPC when sexual intercourse due to consent does not amount to rape u/s 376(1) IPC.

1) On the question at Sr.No.1 : whether the above legal provisions are known to them:-

   iii) The combined positive replies are 83% (514 out of 742) with maximum positive replies from Judges i.e. 93% (27 out of 29), followed by 90% from both field-level and supervisory Police Officers, Public Prosecutors 88% but only 75% (194 out of 258) from women activists.

   iv) The combined negative replies are 17% (128 out of 142) with maximum negative replies from women activists i.e. 25% (64 out of 258), followed by 20% (29 out of 142) from practising lawyers, 12% (10 out of 80) from Public Prosecutors, 10% (19 out of 193) from Police Officers and 7% (2 out of 29) from Judges which indicate that even some legal experts, Police Officers and Women Activists are not aware of above provisions which are basically meant for the prevention of sexual exploitation of working women/women in the custody of public servants by using their position as Public Servant or the persons on management of Remand Home, Jail or Hospital.

   iii) On suggestions:

      There are no specific suggestions from any of the groups.

2) On the question at Sr.No.2 : on such cases, noticed by them but without any cognizance:

   i) The combined replies are 43% (319 out of 742) with maximum replies from Women Activists i.e. 55% (141 out of 258), followed by 54% (77 out of 142) from Practising Lawyers, 30% (24 out of 80) from Public Prosecutors, 32% (61 out of 193) from field-level Police Officers, 25% (10 out of 40) from Supervisory Police Officers and 21% (6 out of 29) from Judges which indicate that the cases of sexual exploitation have been noticed by them but their cognizance had not been taken.

   ii) The combined negative replies are 57% (423 out of 742) with maximum negative replies from Public Prosecutors i.e. 70% (56 out of 80), Judges 79% (23 out of 29), Supervisory Police Officers 75% (30 out of 40), field level Police Officers 68% (132 out of 193) and 45% (117 out of 258) from Women Activists, which indicate that they have not noticed any such cases. But the combined positive replies of 43% indicate that they have noticed such cases of sexual exploitation but without any cognizance.
3) **On the question at Sr.No.3: On awareness of general public about these provisions:**

i) The combined positive replies are 60% (445 out of 742) with maximum positive replies from Supervisory Police Officers i.e. 70% (28 out of 40), followed by 68% (132 out of 193) from field-level Police Officers, Public Prosecutors-54%(43 out of 80), Lawyers-54% (77 out of 142), Women Activists-60% (155 out of 258), and Judges-34% (10 out of 29) which indicate that most of the people are not aware of these provisions.

ii) The combined negative replies are 40% (297 out of 742) with maximum negative replies from Judges i.e. 66%(19 out of 29), Public Prosecutors 46% (37 out of 80), Lawyers 46% (65 out of 142), Women Activists 40% (103 out of 258), Police Officers around 30% (12 out of 40) which indicate that the people to a large extent are not aware of these provisions that could be the reasons as to why no cognizance is taken of such offences of sexual exploitation.

iii) **On suggestions:** The researcher feels that the following suggestions need special attention.

(A) **From Police Officers:**

**From Supervisory Police Officers (Dy.S.P. and above)**

i. Mass education seems to be the only suggestion. The women need to be made aware of these provisions.

**From Field officers (PSI /API/PI)**

i. Posters and banners should be displayed in public places and in Govt. offices. Awareness should be created in working women. Women can approach N.G.Os. and take their help in sexual harassment cases.

ii. Office hours duration should be between 10.00 hrs. to 17.00 hrs and at least two female employees should be put on job together in the office at the same time.

(B) **From Legal Experts:**

**Judges:**

i. Public awareness, measures to provide job security and legal protection.

ii. Create more awareness as to what really amount to sexual harassment and what nature of harassment is punishable because they are not aware that certain acts do amount to sexual harassment at workplace.

iii. The guidelines of Hon’ble Supreme Court in ‘Vishaka’s case’ should be widely circulated amongst public at large.

iv. As a note of caution / warning to employees / officers, posters of aforesaid legal provisions with guidance to victim are to be compulsorily displayed in every office at the working place of women.
From Public Prosecutors:

i. Such provisions should be made aware to general public through media such as T.V. Newspaper, Posters, Radio etc.

ii. Act is already in existence. General guidelines of the provisions be made known to working women and circulars be distributed to them occasionally.

iii. By public awareness programmes, public should be made aware that not only sexual offence but the teasing, taunting also amounts to sexual harassment.

iv. The female employees should be strong enough to come forward & lodge complaints if the authorities harass sexually and other colleagues should support her in carrying out the mission.

v. The Govt. shall provide legal education specifically to working women and also take measures to safe-guard their personal and social interest.

vi. Publicity with the help of media without disclosing the identity of victim.

From Advocates:

i. The working women can be made aware of such provisions by organising the seminars/ speeches by lady legal experts.

ii. Woman officer of the rank of Dy.S.P should head the special Police cell where women can freely go and register crimes for investigation.

(C) From women activists including N.G.Os.:

i. Working women should be trained to face such situations and be made aware of these protections for them by law.

ii. Govt., G.Ms of private companies and N.G.Os. should make the working women aware about these type of legal protection to them.

iii. Newly recruited ladies should be made aware about the legal provisions.

iv. Women organizations, N.G.Os. should help such ladies and will find out such kind of cases of sexual harassment.

v. At every working place, proper information of provisions of Act should be conveyed to the female workers by posters or other means.

4) On the question at Sr.No.4 : On any particular case, noticed (without disclosing the identity of victim) :-

i. The combined positive replies are 26% (195 out of 742) with maximum positive replies from women activists i.e. 39% (101 out of 258), followed by 30% (43 out of 142) from practising Lawyers, 18% (35 out of 193) from field level Police Officers, and 15% (6 out
of 40) from Supervisory Police Officers which indicate that such cases of sexual exploitation are noticed but no cognizance had been taken of such cases.

ii. The combined negative replies are 74%, which indicate that they have not noticed any such cases.

iii. From the positive replies of 26%, it is indicative that such cases of sexual exploitation do occur but no cognizance has been taken, might be due to lack of knowledge of such provisions or fear of likely defamation.

iv) On specific cases noticed (without identity of the victim):-
Following are the few cases noticed without any cognizance.

(A) From Legal Experts:

From Public Prosecutors:

i. Noticed case: A lady working in a well-reputed office had frequent sexual relations with male-officer under a false promise that he would marry her but when she had conceived, the officer refused to marry her.

From Advocates:

i. Noticed case: The woman who is the victim of sexual exploitation, lodged the complaint but the Police neglected due to political leader’s interference.

ii. Noticed case: A girl of about 18 yrs. old was continuously sexually abused by Supdt. of the hostel but due to influence of Supdt., complaint was not lodged.

iii. Noticed case: A girl in a ladies hostel was sexually abused many times by head of the Institution but she did not dare to complaint.

iv. Noticed case: The woman serving in telephone office is the victim. Because of botheration of superiors, she is unable to take any action against the accused such things are going on in Gcvt. Ashramshalas also.

v. Noticed case: She was not given any justice and hence she has committed suicide.

vi. Noticed case: A lonely woman who was working in the field was raped by field owner in the day light by threatening her to kill if she reports to anybody. Matter remains unreported.
(H)-Soliciting views on other relevant matters.

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<td>H) Do you consider that these legal provisions could bring the changes in the mental attitude of male-dominated society to treat the women with respect and dignity?</td>
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<td></td>
<td>72%</td>
<td>28%</td>
<td>80%</td>
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H. Analysis / Comments

On views: whether these legal provisions could bring the changes in mental attitude of male-dominated society to treat the women with respect and dignity.

i) The combined positive replies are 78% (580 out of 742) with maximum positive replies from Public Prosecutors i.e. 88% (70 out of 80); followed by Women Actisits-84%; Supervisory Police Officers-80%; Lawyers-76%; field-level Police Officers-72% and the least by Judges i.e. 48% which indicate that these provisions could bring the positive changes in mental attitude of male-dominated society towards women to treat them with respect and dignity.

ii) The combined negative replies are 22% (162 out of 142), with maximum negative replies from Judges i.e. 52% (15 out of 29); followed by field-level Police Officers-28%; Practising Lawyers-24%; Women Actisits-15% and 12% from Public Prosecutors which indicate that these provision could not bring any changes in mental attitude of male-dominated society to treat women with respect and dignity.

iii) From Researcher- The combined positive replies are 78% which indicate that these provisions could bring the changes in mental attitude toward women to treat them with respect and dignity with negative replies of 22% only. Considering the views / suggestions and crime trend in respect of various provisions particularly dealing with marriage and sex-related crimes, there is certainly positive changes in the attitude of every body towards the women, particularly after the amendment in 1983 and 1986 by making more stringent provisions for dealing with atrocities on women though the objectives of these provisions have not been achieved to a satisfactory level in bringing the desirable changes in the attitude of male-dominated society to treat the women with respect and dignity.

iv) On suggestions: The researcher feels that the following suggestions need special consideration.

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. Legal provisions need to be made more stringent.

ii. Strict implementation of legal provisions, parents of girl coming forward to expose dowry demands, message of equality of women’s status are some measures required to be taken.

From Field officers (PSI /API/PI)

i. Education, self-employment, public awareness & reservation for woman in every field, may be in private or Govt. job will be helpful to women.
(B) From Legal Experts:

Judges:

i. It is not law but socio economic factors which changes attitude. (ii) Sufficient literacy and upliftment of moral values are some of the measures.

ii. Social changes can be brought about not by punishments or by legal provisions but by changing the status of women in her family through awareness and education.

iii. Control the media on sex exploitation.

iv. Ours is male-dominated society and therefore mental attitude will not change.

From Public Prosecutors:

i. Since childhood both gender should be treated equally. Gender oriented superiority complex must be avoided.

From Advocates:

i. The system of our society and the culture of Indian people must be changed

ii. Only law on paper would not bring change in the society, basic attitude of society should be changed. Equality should be established psychologically and mentally.

(C) From women activists including N.G.O.s.:

i. Yes. Up to certain extent, but basic requirement is nothing else than change in social thinking and acceptance of equal status to women at par with men by the society at large.

ii. Woman should realize that they have the potential to change the world. They should stand collective and fight for their rights.

iii. Gender equality be implemented from childhood. It should be practised at all level of society.

iv. Education, empowerment of women, financial independence, spirit of individualism is necessary to change the attitudes of society towards women.
(I) Soliciting views on basic principles of our legal “Accusatorial System vis-à-vis Inquisitorial System.”

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| 1. Being Police officer / Legal Experts / Women Social activist are you well aware of the basic principle of our legal accusatorial system that the “accused is presumed to be innocent until he is proved guilty” which is derived from British legal system. It is otherwise stated by saying that an accused is entitled to the benefit of reasonable doubt. This system is basically based on a maxim of English Law that ten guilty man should escape rather than one innocent man should suffer which was finally declared by Halroyd J in R.V.Hopson case in 1823. In this system, the judge is dispassionate and tends to assist the accused rather than the prosecution. However little deviation has been considered essential by the Indian Legislators, hence mandatory presumption-on has been provided subsequently in Evidence Act. | 152 | 41 | 31 | 9 | 16 | 13 | 67 | 13 | 91 | 51 | 226 | 32 | 583 | 1 | 79% | 21% | 77% | 23% | 55% | 45% | 84% | 16% | 64% | 36% | 87% | 13% | 79% | 2
in respect of “Dowry death” and custodial / gang rape u/s 376 (2) IPC which is slight deviation from accusatorial system. Contrary to the above system, in France and in some continental countries, the “inquisitorial system” is being followed which provides that "an accused is presumed to be guilty until he is proved to be innocent."

As mentioned above, though mandatory presumption in cases of “dowry death: and custodial / gang rape u/s 376 (2) IPC is provided, still the rate of conviction of these cases is negligible and many accused are acquitted on the ground of benefit of doubt due to one reason or the other.

Considering the above scenario, do you suggest to adopt the "inquisitorial system" (which is in force in France and some continental countries and provides that the accused is presumed to be guilty until he is proved innocent) in cases of “dowry death” u/s 304 B IPC and custodial & gang rape cases u/s 376 (2) IPC so as to be more deterrent to the persons, involving in such offences?
I. Analysis / Comments

On views on basic principles of our legal “Accusatorial System vis-à-vis Inquisitorial System” in respect of offences of Dowry death u/s 304 (B) IPC and Gang & Custodial Rape u/s 376(2) IPC.

i) The combined positive replies are 79% (583 out of 742) with maximum positive replies from women activists i.e. 87% (226 out of 258); followed by Public prosecutors-84% (67 out of 80); field-level Police Officers-79% (152 out of 193); Supervisory Public Officers-77% (31 out of 40); practising Lawyers-64% (91 out of 142) and 55% (16 out of 29) from Judges, which are supportive to view that the inquisitorial system should be made applicable at least in cases of two offences against women— one of dowry death u/s 304(B) IPC and second of Custodial & Gang rape u/s 376 (2) IPC.

ii) The negative combined replies are 21% (159 out of 742); with maximum negative replies from Judges i.e. 45% (13 out of 29); followed by Practising Lawyers-36% (51 out of 142); Supervisory Police Officers-23% (9 out of 40); field-level Police Officers-21% (41 out of 193); and 13% from women activists which indicate that ‘inquisitorial system’ should not be made applicable in India and present ‘accusatorial system’ should be continued.

iii) On suggestions: The researcher feels that following suggestion need special attention-

(A) From Police Officers:

From Supervisory Police Officers (Dy.S.P. and above)

i. In out legal system, the accused has many benefits. Most of these benefits seriously need to be curtailed to enable the prosecution and the defendant to play on an even field.

ii. It will be good to read “Justice Mallimeth Committee’s” recommendations on the subject.

From Field Officers (PSI / API /PI)

i. The inquisitorial system is suggested because, I think, it will be effective measure to minimize such type of crimes.

ii. If the inquisitorial system will be in force the judicial system becomes more practical and strict.

iii. If burden of proof lies on the accused to prove his innocence, this system will keep check on such crimes and will deter from committing above social offence.

(B) From Legal Experts:

From Judges:

i. To prove innocence is difficult than proving guilty. Inquisitorial system would lead to involve person of good reputation in false accusation.
ii. The extreme so drastic change in the system to put burden on accused to prove his innocence may cause great injustice. At the most, such benefit of doubt should not be given to such accused.

iii. Now when we have tried accusatorial system and seen that it has miserably failed all over the world, so why not try inquisitorial system on pilot basis regarding some social evils which need immediate rectification because it is only, when we try changes, we will know whether it is effective or not.

iv. Justice is required not only for accused but for victim also. In case of accusatorial system, there are very much chances of injustice to the victim.

v. It is true that in the above mentioned cases to get direct evidence is almost impossible.

vi. Burden will be too heavy on accused and considering the standard of legal knowledge in common man it is not feasible (ii) recent trend is that prosecution instead of proving case beyond reasonable doubt should prove it with reasonable certainty which can solve the problem.

vii. Inquisitorial system has several drawbacks and shortcomings. As we are aware of the fact that the report of Malimath committee has been severely criticized by legal experts.

viii. The increase in crime rate is also due to the less convictions. It is therefore, necessary to adopt inquisitorial system for healthy progressive society and for overall development of nation.

From Public Prosecutors:

i. Considering the high percentage of acquittal in these offences, I am of the view that the “inquisitorial system” should be adopted.

ii. Our legal system is based n principle that innocent persons should not suffer. In our society there is every chance of false implication. Therefore to avoid misuse of legal provision accusatorial system is proper one.

iii. Accused should not be acquitted in cases like 304(B) and gang rape cases u/s 376 (2) only on the ground of benefit of doubt. The evidence should be scrutinized more carefully in these cases.

iv. I think that we should adopt inquisitorial system i.e. accused is presumed to be guilty until he is proved innocent in cases of dowry death u/s 304 (B) IPC and custodial and gang rape cases u/s 376(2) IPC, so as to be more deterrent to the persons involving in such offence.

v. In cases of dowry death, u/s 304 (B) IPC and custodial & gang rape cases u/s 376 (2) IPC “inquisitorial system” is must. In such cases, even today presumption is that, accused has to prove that he is innocent & burden is lying on him.

vi. I have conducted so many cases of above types. Hence I feel that the offence is really committed by accused, but only because of our accusatorial system. The judges are helpless and hence the
accused are acquitted. Hence I propose to adopt inquisitorial system.

vii. In India, accused are dare-devil because, no burden on them throughout the prosecution. At least 50% burden should be shifted on the accused, so that it will not be so easy to escape from clutches of law.

From Advocates:

i. Especially cases under section 376(2) IPC and also 304(B) IPC are heinous social crime which invites inquisitorial system, as no woman will come forward with any false accusation as 304(B) is also supported with 114 of Indian Evidence Act.

ii. Yes to inquisitorial system. Dowry deaths are on increasing side in the recent years. Atrocities on women are also increasing. Women in general are becoming more insecure in the society and hence punishment needs to be more.

iii. Considering the Indian culture and environment and social life of the people the “Accusatorial system” is preferred.

(C) From women activists including N.G.Os.:

i. For these acts, outlook of the judges and police be changed. For that inquisitorial system, which is in force in countries like France, should be introduced here in India. It is necessary to be implemented at the earliest.

ii. In certain cases such as that of gang rape, child rape, dowry death inquisitorial system should be adopted.

iii. In dowry death, custodial or gang rape cases, there is no proof left or no eyewitness is available. The affected woman is the only proof available. But she is not in a position to tell everything in detail and such condition may be beneficial to the accused. Inquisitorial system may be helpful in such cases.

iv. No bail be granted to such accused till the finalization of the case.

(D) From Researcher: There are substantial majority views supporting the ‘inquisitorial system’ in place of existing ‘accusatorial system’ particularly in respect of two types of crimes against women one is of ‘dowry death’ u/s 304(B) IPC and second of ‘custodial & gang rape’ u/s 376(2) IPC. In 1983 the stringent provisions for the severe punishment of custodial & gang rape u/s 376(2) were made by Amendment in IPC with mandatory presumption by new section 114 (A) in Indian Evidence Act. The mandatory presumption u/s 114 (A) in Indian Evidence Act has certainly proved to be slightly effective in raising the conviction rate in such rape cases but still has not achieved the punishment and deterrent objectives of the new amended section. In such cases, the chances of direct evidence to support the prosecution is comparatively very less and remote. Hence the
researcher supports the majority views of shifting from accusatorial system to that of inquisitorial system in *custodial & gang rape cases* by way of necessary amendment in Indian Evidence Act.

In 1986, the provisions on ‘dowry death’ 304(B) IPC has been added to IPC with mandatory presumption by new section 113 B, added to Indian Evidence Act with the object of prevention of ‘dowry death’ of young married women for non-fulfillment of dowry demands. It is transpired during the present study, that these new provisions of ‘dowry death’ under section 304 (B) IPC with corresponding provisions of mandatory presumption under section 113 B in Indian Evidence Act could not achieve the punitive and deterrent objects of the Amendment of 1986. Hence the researcher supports the substantial majority views of shifting to ‘inquisitorial system’ from the existing ‘accusatorial system’ in respect of offence of ‘dowry death’ as the chances of direct evidence and eye witness to support the prosecution case are very remote which are the main reasons for poor conviction rate in dowry death cases.

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