CHAPTER VI

LEGAL ASPECTS OF BRIDE-BURNING

Women claim to be the largest minority in India with a variety of social and economic disabilities which prevent them from exercising their human rights and freedoms in society. During the last few decades a number of laws were enacted with a view to ensuring equality of status and opportunity for women and to ameliorate certain unhappy conditions in which women, particularly Hindu women, found themselves. One of the most burning issues of our time is the burning of the bride herself. How does law deal with this issue is the subject-matter of this chapter. An attempt is made in this chapter to examine and analyse some of the legislations which have been enacted or amended by the Parliament with a view to check the social evil of dowry demand and bride burning.\(^1\)

Three major statutes govern criminal trials and punishment. The Indian Penal Code, 1860, lays down the classification of offences and stipulates punishment. The Code of Criminal Procedure, 1973, lays down procedural rules for investigation and trial and the Indian Evidence Act, 1872, prescribes the rules of evidence which are to

\(^1\) There are several State Legislations as well. For instance, Bihar Dowry Restraint Act, 1950, Andhra Pradesh Dowry Prohibition Act, 1958, Orissa Dowry Prohibition Act, 1961., etc.
be followed during a trial. The increasing number of bride-burning cases had drawn the attention of the legislature and the social justice seekers to change and modify these laws to deal with the problem. These Acts were amended several times by the Parliament to prevent the victimization of women.

Besides the above a special statute, Dowry Prohibition Act, 1961, was enacted by the Parliament with a view to eradicating the social evil of dowry from the society. This statute applies to all communities irrespective of their religious affiliations. The increasing number of the cases of bride-burning led to the setting up a Joint Parliamentary Committee in 1980 to evaluate the provisions of Dowry Prohibition Act which was further amended in 1984 and in 1986 to curb the menace of dowry and bride-burning.

(A) The Dowry Prohibition Act, 1961

The dowry has been an old practice in the Hindu society which has led to the torture of brides in various forms including murder. Debates in Parliament and state Legislatures, extensive publicity by the media and the growth of women's organisations have succeeded in generating collective consciousness of the community to the evil of dowry and to the horror of dowry-deaths. Our society, which till very recently condemned those who could not provide dowry, is now undergoing a swift change.
The husbands and in-laws are being exposed and ostracized for torturing brides to death. All civilized people will have to resist with courage, for the insane greed that prompts dowry killings threaten not only women but the entire society.\(^{(2)}\)

First Legislative efforts to stamp out the evils of dowry system the then Provincial Government of Sind passed an enactment known as "Sind Deti-Leti Act, 1939".\(^{(3)}\) The enactment had neither any impact nor could create the desire effect.

After independence, the first legislative measures prohibiting dowry were enacted by the State Government of Bihar, "The Bihar Dowry Restraint Act, 1950"\(^{(4)}\), followed by the State Government of Andhra Pradesh, "The Andhra Pradesh Dowry Prohibition Act, 1958",\(^{(5)}\) respectively, with the sole purpose of eradicating the practice of dowry system from their respective states.


3. Sind Act No. 21 of 1939. First published, after having received the assent of the Governor, in the Sind Government Gazette on the 13th July, 1939. The provisions of this Act shall not apply to Mohammadans, Parsis, Christians and Jews. See Section 2 of the Act substituted by Section 2 of Sind Act 1 of 1940.

4. Bihar Act No. 25 of 1950. An act to provide for restraining the taking or giving of dowry in marriage. It came into force on such date as the State Government may by notification appoint.

5. Andhra Pradesh Act No. 1 of 1958. An Act of to prohibit Dowry in the State of Andhra Pradesh. Whereas it is expedient to provide for the prohibition of dowry as considerations for marriage and for other matters relating thereto. It came into force at once.
As the problem was assuming enormous proportions, it started agitating the minds of the people both outside and inside the Parliament and the State Legislatures. As a result, the Dowry Prohibition Bill, 1959, with the main object of eradicating the evils of dowry system, was introduced by the Government in the Lok Sabha on April 24, 1959. The Bill was referred to a Joint Committee in September, 1959. The Bill was considered at the joint sittings of both Houses of Parliament held on 6th and 9th May, 1961 and it came into force from July 1, 1961.\(^6\)

This Act provided that if any person, "after the commencement of this Act, gives or takes or abets the giving or taking of dowry", shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees or with both.\(^7\)

Section 2 of the Act of 1961 gave the definition of dowry. Unfortunately the Act could not be implemented effectively. The dowry demands continued unabated. The definition in the Act proved so defective that guilty could be convicted hardly in any case. The Government of India moved a bill for necessary amendment. The matter was referred to a Joint Parliamentary Committee in 1980 to examine the question of the working of the Dowry Prohibition Act, 1961. The Joint Parliamentary Committee

\(^6\) The Act No. 28 of 1961 received the assent of the President of India on May 20, 1961 and Published in the Gazette of India, Extraordinary, 1961, Part II.

\(^7\) Section 3.
submitted its report in 1982. The Committee observed that the evils of the dowry system leading to murders, suicides, burnings—popularly known as 'dowry deaths', harassment and torture of the newly married young girls throughout the country are creating a fear psychosis in India like the mafia in European countries.

The Government of India also had before it the 91st Report of the Law Commission of India\(^8\) presented in 1983, which offered various suggestions on dowry-deaths.

In the light of the recommendations of the Joint Parliamentary Committee and the Law Commission of India, the Dowry Prohibition (Amendment) Act, 1984\(^9\), was passed with a view to curbing the dowry menace. It came into force throughout the country from October 2, 1985 and covered all persons irrespective of their religion. The definition of dowry had been changed slightly, punishment has been enhanced and minimum and maximum punishment limits have been laid drawn.

The Dowry Prohibition (Amendment) Act, 1984, seeks to clarify the definition of "dowry" by substituting the words "as consideration for the marriage" with words

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9. The Dowry Prohibition (Amendment) Act No. 63 of 1984 received the assent of the President of India on September 11, 1984 and it came into force on October 2, 1985.
in connection with the marriage" in Section 2 of the Act of 1961. These words even widen the meaning of dowry but retained the essential character of dowry. Further, under Section 3 of the Act, the punishment was enhanced. It provides that the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years, and with fine which may extend to ten thousand rupees for taking or giving dowry. Section 4 of the Act was substituted and the punishment was enhanced for demanding dowry. Under Section 6 of the Act, the period for the transfer of dowry to the bride from 'one year' to 'three months' was substituted and the punishment was enhanced for this offence. Under Section 7, a wide amendment was made. Under Section 8 of the Act, offences were made cognizable for the purposes of investigation.

The Dowry Prohibition (Amendment) Act, 1986, brought into the existing law several changes. The term "dowry" has been widely defined in amended Section 2. Further, Section 3 was amended to provide for minimum sentence which may be awarded if special reasons exist. A new Section 4-A was added putting ban on certain aspects of matrimonial advertisement. Some modifications were further made in Section 6 (3) of the act. Under Section 8 of the Act, offences were made non-bailable. Two new Sections 8-A and 8-B were added to shift the burden of proof and to provide for appointment of dowry prohibition
officers. Section 10 was substituted to provide for rule making power by the state government.

This Amending Act brought certain necessary changes in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, in order to curb the increasing number of dowry death and dowry harassment. The definition of "dowry-death" was changed to "death of a woman within seven years of marriage if the death was caused by burns or bodily injury and was preceded by dowry related harassment."(10) Section 304-B was inserted in the first schedule of the Code of Criminal Procedure, 1973, along with relevant entries in all the six columns of this Schedule. The Indian Evidence Act was amended to insert a new Section 113-B dealing with presumption as to dowry death.

1. Nature of Offence Under Dowry Prohibition Act

The Act promises to curb the evil of dowry demands. The Dowry Prohibition (Amendment) Act, 1984 and 1986 make the offence cognizable, non-compoundable and non-bailable respectively.

2. Section 2 - Definition of Dowry

Generally in present context the term 'dowry' is understood as nothing but an unwilling extraction from bride's father of all the things that the bridegroom's

10: Section 304-B (1) of the Indian Penal Code.
parents desire for agreeing to accept the girl in marriage to their son. If it is not given, the marriage may not take place, the wedding ceremony may be halted and pressure be brought on the bride's parents to make a promise, or agree to fulfil the promise of desired gifts within a stipulated period failing which a threat is made of sending the bride back to the parent's home for good. (11)

The dictionary meaning of dowry is different from the one given in the Dowry Prohibition Act, 1961. According to Webster Dictionary, it means, "money, goods or estate that a woman brings to her husband at marriage". According to the Cambridge Dictionary, it is, "Property which a woman brings to her husband at marriage".

Dowry refers to the movable and immovable property that a bride brings with her at the time of marriage to her husband and/or his parents/guardians, often on their explicit and occasionally on their implicit demands. (12)

Under Section 2 of the Dowry Prohibition Act, 1961, the definition of dowry is defined as, "any property or valuable security given or agreed to be given either directly or indirectly:


(a) by one party to a marriage to the other party to the marriage, or

(b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person, at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies".

91st Report of the Law Commission of India recommended the definition of dowry as under:

"Dowry means money, or other thing estimable in terms of money, demanded from the wife or her parents or other relatives by the husband or his parents or other relatives, where such a demand is not properly referable to any legally recognised claim and is relatable only to the wife's having married into the husband's family." (13)

But this definition has not been accepted by the Parliament. Further, the Dowry Prohibition Rules 1985, (14) lay down that each list of presents should be prepared at the time of marriage or as soon as possible.


after the marriage. Explanation I attached to Section 2 of the Act has been omitted by this amendment Act.

The Judgments of the Punjab and Haryana High Court, (15) and the Supreme Court in Pratibha Rani v. Suraj Kumar, (16) hold the view that whatever is given to the bride at the time of marriage or thereabout constitutes dowry. The dowry has been made 'Stridhan' by virtue of Dowry Prohibition Act. (17)

Recently, the Andhra Pradesh High Court observed that the definition of dowry is wide enough to include all sort of properties, valuable securities etc. given or agreed to be given directly or indirectly. Therefore, the amount of Rupees 20,000/- and 1½ acres of land agreed to be given at the time of marriage is nothing but dowry. At the time of marriage, when the deal was settled, it was agreed that an amount of Rs. 20,000/- and 1½ acres of land should be given as dowry. Merely because later the said land was agreed to be transferred in the name of the deceased as 'pasupukum kuma' by executing a deed, the said land cannot be said to be not a part of dowry, as it was part and parcel of the original transaction of the dowry deal. (18)


It is apparent that the scope of the meaning of the word dowry as generally understood has been amply broadened under this definition and covers a wide spectrum of transaction practices that form part of marriages in different regions in the country.

(i) Dowry and Dower (Mahr)

There is a wide misconception that dower (mahr) is considered as dowry. But the dower (mahr) is entirely different from dowry. It can be understood from the definitions and decisions of the different courts.

In the Pre-Islamic period, the mahr was handed over to the wali, i.e. the father or brother or relative in whose guardianship (wala) the girl was. Here the original character of the marriage by purchase is more apparent. In earlier times the bride received none of the mahr. What was usually given to the woman at the betrothal was the sadag, the mahr, being the purchase price of the bride, was given to the wali.\(^{(19)}\)

The 'Holy Prophet' (peace be upon him) took over the old Arab patriarchal ceremony of marriage as it stood and developed it in several points. The 'Holy Qur’an' no longer contains the conception of the purchase of the wife and the mahr as the price, but the mahr is in a way a reward, a legitimate compensation which the woman has to

claim in all cases. (20)

The 'Holy Qur’an' has stressed upon the husbands:

"And Give the women (on marriage) their dower as a free gift but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer" (21)

The bridal gift is the property of the wife; it, therefore, remains her own if the marriage is dissolved. According to a tradition in Bukhari, the mahr is an essential condition for the legality of the marriage. (22)

Mr. Justice Mahmood defines dower as follows:

"Dower, under the Muhammadan law, is a sum of money or other property promised by the husband to be paid or delivered to the wife in consideration of the marriage, and even where no dower is expressly fixed or mentioned at the marriage ceremony, the law confers the right of dower upon the wife." (23)

It is not 'consideration' in the modern sense of the term, but an obligation imposed by the law upon the

20. Ibid.
23. Abdul Kadir v. Salima (1886) 8 All. 149.
husband as a mark of respect to the wife. (24)

The Muslim concept of dower has no reference to the price that under some systems of law was paid to the father of the bride when she was given in marriage. On the other hand, it is considered a debt with consideration (for submission of her person by the wife). The result is that dower is purely in the nature of a marriage settlement and is for consideration. It is a claim arising out of contract by the husband and as such has preference to bequests and inheritance, but on no principle of Muhammadan law it can have priority over other contractual debts. (25)

The best general observations on dower are those of Lord Parker in *Hamira Bibi v. Zubaida Bibi:* (26)

"Dower is an essential incident under the Muhammadan law to the status of marriage, to such an extent this is so that when it is unspecified at the time the marriage is contracted the law declares that it must be adjudged on definite principles. Regarded as a consideration for the marriage, it is, in

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theory, payable before consummation; but the law allows its division into two parts, one of which is called 'prompt', payable before the wife can be called upon to enter the conjugal domicile; the other 'deferred', payable on the dissolution of the contract by the death of either of the parties or by divorce...."

These judicial observations and Qur'anic injunctions show a correct picture of the Islamic legal concept of mahr.

On the other hand, Section 2 of the Dowry Prohibition Act, 1961, lays down that the definition of 'dowry' does not include dower or mahr in the case of person to whom the Muslim Personal Law (Shariat) applies. In this view, mahr cannot be covered under the definition of 'dowry' even if the exception is not there.

It is, therefore, clear from the 'Qur'anic' injunctions, definitions and decisions of the courts that dower (mahr) is given by the husband to the bride as a token of respect, while the dowry is presented by the bride's parents to the groom or groom's parents. The dowry is demanded by the groom or groom's parents from the bride or bride's parents. If the bride fails to bring desired dowry, she is harassed, tortured and burnt to death or compelled to commit suicide. On the other hand, the dower (mahr) is demanded by the bride and it is
treated her lien. This is the reason why dower (mahr) has been excluded from the definition of dowry. Before Shah Bano decision, it was commonly accepted view that mahr is given in consideration of marriage.

(ii) In Connection With the Marriage of the Said Parties

The Dowry Prohibition (Amendment) Act, 1984, has substituted the words, "as consideration for the marriage" with words, "in connection with the marriage of the said parties". It has widened the definition of dowry. This amendment was made with a view that it will be easier to prove that dowry was given or taken in connection with the marriage.

The present Amending Act has failed to serve its purpose. This Section proves a major stumbling block in the implementation of Dowry Prohibition Act, since the presents made as gifts are not considered to be dowry unless it can be shown that gifts have been given or taken, "in connection with marriage". The presents may be given by the bride's parents not 'in connection with marriage' but due to the fear that their daughters may be harassed and tortured. The presents given at the time of marriage by the bride's parents or relatives have been excluded from the definition of dowry.

The Joint Parliamentary Committee had proposed a ceiling in respect of presents given to the bride, bride-

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27. A.I.R. 1985 SC 945.
groom and marriage expenses incurred by the bride's parents. But this suggestion does not find a place in the Dowry Prohibition (Amendment) Act, 1984.

(iii) Property or Valuable Security

The word property in the Section has been used in a very wide sense. It includes both movable and immovable property because the word 'property' is used in this Section without any adjective.

The Supreme Court in case of Dwarkadas Shrinivas v. Sholapur Spinning and Weaving Co., observed that it must be understood both in the corporeal sense as having reference to those specific things that are susceptible of private appropriation and enjoyment as well as in its juridical or legal sense as a bundle of rights which the owner can exercise under the Municipal law with respect to the use and enjoyment of these things to the exclusion of others.

The word "valuable security" has been defined in Section 30 of the Indian Penal Code, as under:

"The words 'valuable security' denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any


person acknowledges that he lies under legal liability, or has not a certain legal right".

The term "valuable security" applies to the original document, and not to a copy. A copy of valuable security is not a valuable security. Account books containing entries not signed by a party are not "valuable security".

3. Section 3 - Penalty for Giving or Taking Dowry

Section 3 of the Dowry Prohibition Act, 1961, provides that, "If any person after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

But now the punishment has been enhanced and a minimum and maximum punishment limits have been laid down by the Dowry Prohibition (Amendment) Act, 1984. The Amending Act provides that, "the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more".

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a

sentence of imprisonment for a term of less than six months. (33)

Under the Dowry Prohibition (Amendment) Act, 1986, further the punishment was enhanced to curb the evil practice of dowry. The Amending Act of 1986 provides for the offence of giving or taking dowry a "punishment which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years". (34)

(i) GIVES

The word 'gives' has not been defined in the Act. Generally, the bride’s parents or relatives give the dowry to the groom or the groom’s parents. Sometimes, the parents of the girls give the dowry by their own free will for the welfare of their daughters. In some cases, they give the dowry to the groom or groom’s parents due to the fear that their daughters would be subjected to harassment and torture. In a majority of cases, the parents do not give dowry out of their free will but are compelled to do so. The dowry is given not only before the marriage or at

33. Section 3.
34. Ibid.
the time of marriage or after the marriage but it continues on several occasions.

Under this Section both the giver and taker are punishable. In fact, the giver of dowry is mere a victim than a criminal. The giver i.e. parents, who are usually the victims, would not in the interest of the girl come forward to make a complaints and for fear of being prosecuted.

The Joint Parliamentary Committee felt that this is one of the reasons why the Dowry Prohibition Act, 1961, although in operation for such a long time had failed to achieve its objectives. The Committee desired that it may be made clear that giver of the dowry should not be subjected to any punishment as an abettor. But this recommendation was not accepted by the Government.

(ii) TAKES

The word ‘takes’ denotes that a person who receives the dowry in connection with the marriage. The groom and groom’s parents take the dowry from the bride’s parents or relatives. The mother-in-law and sister-in-law play a very important role in taking the dowry.

Interestingly, some of the parents, particularly the mother of the groom, say that it is not for monetary gains that they seek dowry, but that it is, "proof that our son is not a worthless creature". The irony is that more
often that it is the mother-in-law who subscribes to this theory.\(^{(35)}\)

Sometimes, the groom and his parents take the dowry as a status symbol. Since the reputation factor is involved in dowry system, inadequate dowry makes the groom’s family feel that its reputation has been lowered by the bride and it takes resort to the inhuman torturing of the bride for more dowry and it continues till the event is over.

(iii) **Abets the Giving or Taking of Dowry**

Under Section 3 of the Act, any person who abets the giving or taking of dowry shall be punishable. According to this Section both the giver and the taker are punishable.

Abetment of an offence is punishable. To abet means, in common language, to instigate, to help or to encourage. Under Section 107 of the Indian Penal Code abetment is constituted in the following ways:

1. by instigating a person to commit an offence, or
2. by engaging in a conspiracy to commit an offence, or
3. by intentionally aiding a person to commit an offence.

Abetment is an offence only if the act abetted would

itself be an offence punishable under the Indian Penal Code or under any other law for the time being in force. The offence is complete as soon as the abettor has incited another to commit a crime. Section 108 of the I.P.C. defines an abettor as under:

"A person abets an offence, who either abets the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence, with the same intention or knowledge as that of the abettor".

In an offence of abetment active complicity, on the part of the abettor, prior to the time of actual commission of the offence is necessary. Therefore, abettor is one who instigates, aids or engages in a conspiracy within the meaning of Section 107.

The abetment of dowry offence may be constituted not merely by instigation but also by conspiracy and aiding in the commission of offence. The abetment of dowry offence depends upon the intention of the person (giver or taker of dowry) who abets the offence.

Very often, when a particular groom and his parents are unwilling or opposed to accepting dowry, the girls' parents insist on giving dowry due to the fear that their daughter will not find a suitable place in that family. On
the other hand, in almost all the cases, the groom and his parents demand the dowry as a matter of right and abets the bride's parents to give the desired dowry.

(iv) Lists of Presents

The Amending Act, 1984, has also introduced the concept of presents made at the time of marriage. Sub-Section (2) of Section 3 of the Act provides that, "Nothing in sub-Section (1) shall apply to, or in relation to --

(a) Presents which are given at the time of marriage to the bride (without any demand having been made in that behalf) :
Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) Presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf) :
Provided that such presents are entered in a list maintained in accordance with the rules made under the act :
Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom or on whose behalf such presents are given.
Sub-Section (2) of Section 3 of the Act speaks of the ‘presents’ made at the time of the marriage, and does not speak of presents made before or after the marriage. It, further, lays down that all presents given to the bride and bridegroom at the time of marriage should be listed in two separate lists, one containing the items of presents given to the bride, and the other containing the items of presents given to the bridegroom. However, the Act does not provide for the registration of the lists.

The Dowry Prohibition (Maintenance of the Lists of Presents to the Bride and the Bridegroom) Rules, 1985 provide for the maintenance of the following two lists:

(a) The lists of presents which are given at the time of marriage to the bride shall be maintained by the bride.

(b) The lists of presents which are given at the time of marriage to the bridegroom shall be maintained by the bridegroom.

The rules lay down that each list of presents should be prepared at the time of marriage or as soon as possible after the marriage. The rule 2(3) provides for the following:

(a) Lists should be in writing, and

(b) Should contain the following information:

(i) a brief description of each presents,

(ii) the approximate value of the presents,
(iii) the name of the person who has given the present, and 
(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship,

(c) Shall be signed by both the bride and the bridegroom.

Rule 2(4) of the Act says that the bride or the bridegroom, if they desire, may obtain the signature or signatures of any relations of the bride or the bridegroom or of any other person or persons present at the time of the marriage.

4. Section 4 - Penalty for Demanding Dowry

Section 4 of the Dowry Prohibition Act, 1961, provides that:

"If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this Section except with the previous sanction of the State Government or of such officer as the
State Government may, by general or special order, specify in this behalf."

Under Section 4 of the Dowry Prohibition (Amendment) Act, 1984, the punishment has been enhanced and a minimum and maximum punishment limits have been laid down. The Amending Act provides that, the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

Proviso of the Section says that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

Therefore, Section 4 of the Act has been amended under the Dowry Prohibition (Amendment) Act, 1984, in two respects namely:

(a) the provision for minimum and maximum punishment,

and

(b) removal of the requirement of sanction of state government.

There are numerous issues which pertain to sentencing structure and sentencing of offenders in dowry related crimes. These issues have been fully discussed in chapter VII infra.
(i) Offence of Demanding Dowry is Constituted When Demand is Accepted

This is an open fact that married women are victims of dowry demands. It is not only that demands of dowry are confined at the time of marriage but extended to the various festivals. In cases coming under the Dowry Prohibition Act of 1961, there was some controversy among the High Courts as to whether offence of demanding dowry is constituted when demand is accepted.

In Kashi Prasad v. State of Bihar\(^{36}\), the Patna High Court expressed the view that mere demand for dowry would not constitute an offence under the Section unless it was shown that the other party consented to pay it. Luthra, J. of the Delhi High Court in Inder Sen v. State,\(^{37}\) after quoting the definition of dowry observed:

"Thus, the definition of the word 'consideration' leads to the conclusion that property or valuable security should be demanded or given whether in the past, present or future for bringing out solemnization of marriage, giving a property or valuable security by the parents of the bride cannot constitute a 'consideration' for the marriage unless it was agreed at the time of or before the marriage that such property or valuable security would be given in future."

36. 1980 BBCJ 612.

37. 1981 Cri. L.J. 1116 (Delhi HC)
But the Dowry Prohibition (Amendment) Act, 1984 makes it is clear that any such demand is a complete offence at the time it is made irrespective of the fact whether it is accepted by the other party or not.

(ii) Mere Demand for Dowry Constitutes the offence

The preferable view should be that mere demand for dowry should constitute the offence under Section 4 of the Act. In Daulat Man Singh v. C.R. Bansi, the Bombay High Court held that a mere demand for money as dowry for completing the marriage ceremonies on the pain of not completing the same if the demand was not met was sufficient to constitute the offence of demanding dowry under Section 4 of the Act, even though the bride’s father did not consent or accede to the demand. That this is the correct view has been confirmed by the Supreme Court in L.V. Jadhav v. Shankar Rao. In this case the complaint averred that the bridegroom and his father demanded in cash a sum of Rs. 50,000/- from the complainant on the pretext that money was required for the transport of couple from India to USA where the groom was employed as an engineer. After marriage she was not sent to USA with her husband and the demand persisted. The father of the bride lodged the complaint. The matter went before the division of the Bombay High Court.

38. 1980 Cri. L.J. 1171
The Bombay High Court, ignoring its earlier decision in Daulat Man Singh's case, observed that since the demand for dowry was not accepted by the other party no offence of demanding dowry was committed. Reliance was placed on the definition of dowry contained in Section 2 of the Act.

The Supreme Court after a review of the provisions of Sections 2, 3, and 4 of the Act and precedents of the High Court, speaking through Varadarajan, J. held:

"We are of the opinion that having regard to the object of the Act a liberal construction has to be given to the word 'dowry' used in Section 4 of the Act to mean that any property or valuable security which is consented to be given on the demand being made would become dowry within the meaning of Section 2 of the Act. We are of the opinion that the object of Section 4 of the Act is to discourage the very demand for property or valuable security as consideration for marriage between the parties there to ... There is no warrant for taking the view that the initial demand for giving of property or valuable security would not constitute an offence and that an offence would take place only when demand was made again after the party on whom demand was made agreed to comply with it."

With the modified definition of dowry in Section 2 of the Dowry Prohibition (Amendment) Act, 1984, there is
hardly any scope for the controversy, and a mere demand for dowry would constitute an offence, irrespective of the fact whether it was accepted or not.

But in a recent case of Sankar Prasad Shaw v. The State, the Calcutta High Court has expressed a contrary view. The court observed that in view of the definition of "Dowry" under Section 2 of Dowry Prohibition Act, the mere demand thereof would not be an offence under Section 4 of the Act. It should either be given or agreed to be given at or before or after the marriage in connection with the marriage. Although in common parlance one very often use the term "dowry demand" in cases where the husband or his relations demand valuable security from the parents and other relations of the wife after the marriage, yet this will not amount to demand for dowry under the Act in view of the definition of dowry contained in Section 2 of the Act. The alleged offence as made out in the complaint petition may attract the penal provision as contained in Section 498-A of the Indian Penal Code.

5. Section 4-A Ban on Advertisements

A new Section 4-A has been inserted under the Dowry Prohibition (Amendment) Act, 1986. It provides that if any person;

(a) offers, through any advertisement in any newspaper, periodical, journal or through any other media any

share in his property or any other money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative;

(b) prints or publishes or circulates any advertisement referred to in clause (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees.

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months..

6. **Section 5 - Agreement for Giving or Taking Dowry to be Void.**

Section 5 of the Dowry Prohibition Act, 1961, provides that, "any agreement for giving or taking dowry shall be void." It means if under such an agreement the giver has not given the dowry to the taker, the agreement cannot be enforced. But it does not mean that if the taker has received the dowry, he can retain it as is apparent from Section 6 of the Act.

7. **Section 6-Dowry to be for the Benefit of the Wife or Her Heirs.**

Section 6 of the Dowry Prohibition Act, 1961,
provides that where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman within one year after the date of receipt.

Under the Dowry Prohibition (Amendment) Act, 1984, the time limit has been reduced within which the third party who has received the dowry or who is in its possession should return it to the bride within three months. The minimum and maximum punishment has been laid down. Section 6 (1) of the Amending Act provides that whosoever, whether the bridegroom, his parents or relations or any other person, has received the dowry must hold it in trust for the bride and must transfer it to her within the period of three months. Sub-Section (2) of Section 6 of the Dowry Prohibition (Amendment) Act, 1984, lays down that if he fails to do so, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both.

Under sub-Section (3) of Section 6 of the Act, a new proviso has been inserted by the Dowry Prohibition (Amendment) Act, 1986. It lays down that if the woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall go to her children and if there are no children then to her parents.
Sub-Section (3-A) of Section 6 of the Act, further, lays down that even after his conviction he must transfer the dowry to the woman within the time as specified in the order. If such person fails to comply with the direction within the period so specified, an amount equal to the value of the dowry may be recovered from him as if it were a fine imposed by such court and paid to such woman, or, her heirs.

This provision in fact protects the interest of the wife in the matrimonial home by providing that if dowry is received by any person from in-laws side, that person is obliged to transfer it to her. If the wife dies before receiving it, her children or parents are entitled to claim it from the person holding it. The Amending Act has also strengthened the hands of the court to ensure the restoration of dowry to woman entitled to it.

In case of Pratibha Rani v. Suraj Kumar,\(^{(41)}\) the wife was given jewellery, silver articles and clothes as stridhan. But when the couple fell apart, the husband kept the items claiming that they were joint properties. The wife filed a case for criminal breach of trust but the High Court of Punjab and Haryana quashed the complaint following its earlier Full Bench decision in Vinod Kumar's\(^{(42)}\) case. The Supreme Court stated in the judgment that the High Court's view was unsustainable because

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neither the Hindu Marriage Act nor the Hindu Succession Act abolished the stridhan. The Court observed:

"With regard to the stridhan property of a married woman, even if it placed in the custody of her husband or in-laws, they would be deemed to be trustee and bound to return the same if and when demanded by her. The Court, further, observed that the items given in dowry to the bride and other gifts made to her at the time of marriage belong exclusively to her, thereafter. These do not become the joint property of the bride and her husband or husband's family ... The husband and his family can at the most have control over these articles as trustee. But if they use these without her consent or refuse to return these to her when she demands, then the husband and his family can be prosecuted by the wife for criminal breach of trust under the Indian Penal Code".

Recently, the Punjab and Haryana High Court in Pradeep Kumar Malik v. State of Punjab\(^{43}\) held that in case of an unnatural death of a wife within seven years of marriage, and when no child left behind, dowry has to be transferred to her parents and not to the husband.

8. Section 7 - Cognizance of Offences

Under Section 7 of the Dowry Prohibition Act, 1961, it was not stated as to who could file a complaint for the

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\(^{43}\) 1990 (2) HLR, 121 (P & H).
prosecution of a dowry offence and it created some difficulties of interpretation. Now under Section 7 (i) (b) (ii) of the Dowry Prohibition (Amendment) Act, 1984, any one of the following persons can file a complaint:

(a) Aggrieved person,
(b) A parent or other relative of the aggrieved party, and
(c) Any recognised welfare institution or organisation.

In case of dowry offence, the aggrieved person is regarded the bride or the bridegroom on whose behalf dowry is given or agreed to be given. In most of the cases, the dowry demand is made from the parents, or guardian and where dowry is paid, the maker of the payment is the guardian or parent of the other party, yet the aggrieved person is not considered to be the parent or guardian of the bride or bridegroom, but the bride or bridegroom.

Three All-India Women’s Organisations have been recognised and authorised to file complaints under the Dowry Prohibition (Amendment) Act, 1984, to lower courts directly or at police stations. The complaints will be treated as First Information Reports to prevent the tampering of evidence. The organisations recognised are the All-India Women’s Conference, the Mahila Dakshta Samiti and the Guild of Services.
Section 7 (1) (b) of the Dowry Prohibition (Amendment) Act, 1984, specifically lays down that cognizance of the dowry offence can be taken by the court:

(i) on the basis of its own knowledge, or a police report of the facts which constitute such offence, or

(ii) upon a complaint by the person aggrieved by the offence or parent or other relative of such person, or by any recognised welfare institution or organisation.

Under the old Section, the court has no power to take cognizance of a case suo motu or on the report of the police.

9. **Section 8-Offences to be Cognizable for Certain Purposes and to be Non-bailable and Non-Compoundable**

Under Section 8 of the Dowry Prohibition, Act, 1961, the dowry offences were non-cognizable, bailable and non-compoundable. By virtue of the Dowry Prohibition (Amendment) Act, 1984, Section 8 (1) now has made dowry offences cognizable for two purposes:

(a) for the purposes of investigation of such offences, and

(b) for the purposes of matters other than -

(i) matters referred to in Section 42 of the Code of Criminal Procedure, 1973, and

(ii) the arrest of a person without a warrant or without an order of a Magistrate.
Neither the original Act nor the Dowry Prohibition (Amendment) Act, 1984, had made the dowry offences as cognizable, but nonetheless, the amendment Act made these offences as cognizable for the purpose of investigation. Under this Section a police officer has the power to investigate any dowry offence, without waiting for a complaint to be filed. At the same time no person can suffer any harassment as he cannot be arrested without a warrant or an order of a Magistrate involved in the offence. Similarly, in connection with dowry offences, arrests cannot be made under Section 42 of the Cr.P.C. Further, sub-Section (2) of Section 8 of the Act lays down that every offence under this Act shall be non-compoundable.

The Dowry Prohibition (Amendment) Act, 1986, has made dowry offences non-bailable offence under Section 8(2).

10. Section 8-A: Burden of Proof in Certain Cases

Sections 8-A and 8-B have been inserted by the Dowry Prohibition (Amendment) Act, 1986. Section 8-A of the Act provides that where any person is prosecuted for taking or abetting the taking of any dowry under Section 3, or the demanding of dowry under Section 4, the burden of proving that he had not committed an offence under these Sections shall be on him.
11. Section 8-B: Dowry Prohibition Officers

Section 8-B (1) of the Act provides that the State Government may appoint as many Dowry Prohibition Officers as it may consider necessary. They shall exercise their jurisdiction and powers under this Act. Sub-Section (2) of Section 8-B of the Act provides that every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:

(a) to see that the provisions of this Act are complied with,

(b) to prevent, as for as possible the taking or abetting the taking of, or demanding of dowry,

(c) to collect such evidence as may be necessary for the prosecutions of persons committing offences under the Act, and

(d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in rules made under this Act.

Sub-Section (3) of Section 8-B of the Act provides that the State Government may confer such power of a police officer on the Dowry Prohibition Officer who shall exercise such power subject to such limitations and conditions as may be specified by rules made under this Act.

Sub-Section (4) of Section 8-B of the Act, further, lays down that the State Government may appoint an
advisory board consisting of not more than five social workers (out of whom at least two shall be women) for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act.

12. Section 9-Power to Make Rules

Section 9 of the Dowry Prohibition Act, 1961, lays down that the Central Government may make rules for carrying out the purposes of this Act. Such rules may provide the form and manner in which any lists of presents shall be maintained and all other matters connected therewith and the better co-ordination of policy and action with respect to the administration of this Act.

The Central Government had made the Dowry Prohibition (Maintenance of Lists of Presents to Bride and Bridegroom) Rules, 1985.

13. Section 10-Power of State Government to Make Rules

Section 10 of the Dowry Prohibition Act, 1961, provides that the State Government may make rules for carrying out the purposes of this Act. Such rules may provide for all or any of the following matters namely -

(a) the additional functions to be performed by the Dowry Prohibition Officer under sub-Section (2) of Section 8-B:

(b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under
sub-Section (3) of Section 8-B.

The state statutes on dowry are still valid so far as they are not consistent with the Amending Act of 1984 and 1986 respectively.

In spite of this amendment, the spate of bride-burning (dowry - death) in the country is not on the decline at all. The Dowry Prohibition (Amendment) Act, 1986, has also failed to achieve its objective and the dowry menace remains almost as usual.

(B) Dowry Related Offences Against Women Under the Indian Penal Code

The Indian Penal Code(44) did not contain any specific provision to deal with dowry cases till 1983 when it was amended to meet the new situation by adding few new offences. It is intended here to discuss and analyse the dowry related offences under the I.P.C. These offences may fall either under general provisions or under specific provisions.

Due to the lack of specific provision pertaining to violence against women within the home, the husbands and in-laws could be convicted under the general provisions relating to murder, abetment to suicide, causing hurt and wrongful confinement. But with a view to combating the increasing menace of cruelty to married women related to dowry and dowry death, specific protective provisions have been created in the Indian Penal Code by the Criminal Law

44. Hereinafter, I.P.C.
(Second Amendment) Act, 1983 and the Dowry Prohibition (Amendment) Act, 1986 respectively.


Assault/Criminal force (S.352), Outraging the modesty of a woman (S.354), Voluntarily causing hurt and Voluntarily causing grievous hurt (SS. 323-329), Wrongful confinement (S.342), Murder (S. 302), Attempt to commit murder (S.307), Abetment to commit suicide (S. 306)

2. Specific Provisions

Cruelty to women (S.498-A) and Dowry death (S.304-B).

As far as general provisions are concerned the physical abuse of females can be charged under Section 352, I.P.C. for criminal force or assault and under Section 354, I.P.C. for outraging the modesty of women. There is no separate provisions for wife-battering either in the I.P.C. or in any other law. The cases of wife-battering may be covered by general provisions contained in the I.P.C. relating to voluntarily causing hurt and voluntarily causing grievous hurt under Sections 323 to 329 I.P.C.. The harassment of the bride has become very common with the sole purpose of extracting more and more dowry from her parents. As noted in earlier chapters that the brides are beaten or tortured when they refused to comply with dowry demands. Sometimes, the beating coupled with harassment results in murder or suicide. To meet
such cases the general provisions of the I.P.C. were generally applied.

But these provisions did not take into account the specific situation of women facing violence within the home as against assault by the husbands and in-laws. It was extremely difficult for women to prove violence by husbands and in-laws beyond reasonable doubt. There would be no witnesses to corroborate her evidence as the offence is committed within the four walls of the home. Even if the beating did not result in grievous hurt (Section 325, I.P.C.), the routine and persistent beatings would cause grave injury and mental trauma to the woman. Generally complaints can be registered only after an offence has been committed. But in a domestic situation a woman needed protection even before a crime is committed when she apprehended danger to her life as she has been living with her assaulter and has also been dependent on him. The increasing cases of dowry harassment, cruelty, wife-battering and bride-burning attracted the attention of several women’s organisations. Initially, only dowry-related violence was highlighted by women activists. But later on, all violence faced by women within homes was attributed to dowry demands by the women activists. The women’s organisations pressurised the government to make a special provision for protection against violence under all circumstances.

The Criminal Law was amended to create special
categories of offences to deal with dowry harassment, cruelty to married women and dowry deaths.

A new offence, the offence of cruelty to wife by her husband and in-laws was created by inserting in a new chapter XX-A, and a new Section 498-A in the Indian Penal Code by the Criminal Law (Second Amendment) Act, 1983. The Section 498-A is worded thus:

"Whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

Explanation - For the purposes of this Section "cruelty" means -

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

The object of this Section 498-A, I.P.C. is to specifically deal with a situation when coercion is exercised for demanding dowry after the marriage by the
husband or in-laws of the married woman. It also includes mental or physical cruelty. The wording of the Section is wide enough to apply to other situations of domestic violence.

The Criminal Law (Second Amendment) Act, 1983, also amended the Indian Evidence Act by inserting a new Section 113-A. It created a presumption as to abetment of suicide by a married woman if the suicide occurred within a period of seven years of the marriage. This provision is intended to shift the burden of proof on the husband.

Initially, the police refused to register cases under Section 498-A, I.P.C. unless specific allegations of dowry harassment were made. This led to constant agitations and interventions by the women's organisations. It has now been accepted that Section 498-A, I.P.C. ought to be used in all situations of cruelty and domestic violence.

In cases of dowry demands where death/suicide had occurred the police generally charged the husband and in-laws of the victims either under Section 302, I.P.C. for murder or Section 306, I.P.C. for abetment to suicide. Section 302, I.P.C. provides:

"Whoever commits murder shall be punished with death, or imprisonment for life and shall also be liable to fine."
Section 306, I.P.C. provides:

"If any person commits suicide, whoever, abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Murder by burning is extremely difficult to prove. Perhaps that is why dowry-deaths through burning are common. A victim is led to suicide through extreme harassment or cruelty. Most of the bride-burning cases registered by the police relate to abetment to suicide under Section 306, I.P.C. and not murders. Under the existing laws it is impossible to prove abetment to suicide in the court of law, if the victim has not left any note behind a dying declaration.

The increasing number of dowry-death cases attracted the serious attention of the legislature and the Dowry Prohibition (Amendment) Act, 1986 was passed. It introduced a new offence of Dowry Death by inserting a new Section 304-B in the Indian Penal Code. The Section runs:

"Dowry Death" :

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was
subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation - For the purpose of this sub-Section "dowry" shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life".

Further, the Dowry Prohibition (Amendment) Act, 1986, inserted a new Section 113-B in the Evidence Act, relating to a presumption as to dowry death. The presumption of dowry death under Section 113-B imposes a heavy burden on the accused to prove that he is innocent.


The new provisions have come under judicial scrutiny in a number of cases both before the Supreme Court and the High Courts. In State of Punjab v. Iqbal Singh, the Supreme Court has dealt with the legislative intent behind the enactment of Sections 304-B, 498-A, I.P.C. and Sections 113-A and 113-B of the Indian Evidence Act in the following words:

45. See Infra f.n. (73) and the accompanying text.
46. 1991 Cri. L.J. 1897.
"The legislative intent is clear to curb the menace of dowry deaths, etc. with a firm hand. We must keep in mind this legislative intent. It must be remembered that since crimes are generally committed in the privacy of residential homes and in secrecy, independent and direct evidence is not easy to get. That is why the legislature has by introducing Sections 113-A and 113-B in the Evidence Act tried to strengthen the prosecution hands of permitting presumption to be raised if certain foundational facts are established and the unfortunate event has taken place within seven years of marriage. This period of seven years is considered to be the turbulent one after which the legislature assumes that the couple would have settled down in life. If a married woman is subjected to cruelty or harassment by her husband or his family members Section 498-A, I.P.C. would be attracted. If such cruelty or harassment was inflicted by the husband or his relative for, or in connection with, any demand for dowry immediately preceding death by burns and bodily injury or in abnormal circumstances within seven years of marriage, such husband or relative is deemed to have caused her death and is liable to be punished under Section 304-B, I.P.C. When the question at issue is whether a person is guilty of dowry death of a woman and the evidence
discloses that immediately before her death she was subjected by such person to cruelty and/or harassment for, or in connection with, any demand for dowry. S. 113-B, Evidence Act provides that the court shall presume that such person had caused the dowry death. Of course, if there is proof of the person having intentionally caused her death that would attract Section 302, I.P.C.. Then we have a situation where the husband or his relative by his wilful conduct creates a situation which he knows will drive the woman to commit suicide and she actually does so, the case would squarely fall within the ambit of Section 306, I.P.C.. In such a case the conduct of the person would tantamount to inciting or provoking or virtually pushing the woman into a desperate situation of no return which would compel her to put an end to her miseries by committing suicide."

In case of Smt. Shanti v. State of Haryana, the issue before the Supreme Court was whether Sections 304-B and 498-A, I.P.C. are mutually exclusive. The court observed that these provisions deal with two distinct offences and are not mutually exclusive. It is true that "cruelty" is a common essential to both the Sections and that has to be proved. The explanation to Section 498-A

47. The accused was convicted under Section 306, I.P.C. but was acquitted by the High Court. In state appeal the Supreme Court restored the conviction order of the trial court.

gives the meaning of "cruelty". In Section 304-B, I.P.C. there is no such explanation about the meaning of "cruelty" but having regard to the common background to these offences the meaning of "cruelty or harassment" will be the same as given in explanation to Section 498-A under which "cruelty" by itself amounts to an offence and is punishable. Under Section 304-B it is the "dowry death" that is punishable and such death should have occurred within seven years of the marriage. No such period is mentioned in Section 498-A, I.P.C. and the husband or his relative would be liable for subjecting the woman to "cruelty" any time after the marriage. Further, a person charged and acquitted under Section 304-B can be convicted under Section 498-A without charge being there, if such case is made out. But from the point of view of practice and procedure and to avoid technical defects it is necessary in such cases to frame charges under both the Sections and if the case is established they can be convicted under both the Sections but no separate sentence need be awarded under Section 498-A in view of the substantial sentence being awarded for the major offence under Section 304-B, I.P.C.

In another case the Andhra Pradesh High Court observed that a reading of Section 304-B, I.P.C. and 113-B of the Evidence Act together makes it clear that law authorises a presumption that the husband has caused the death of a woman if she happens to die in circumstances
not normal and that there was evidence to show that she was treated with cruelty or harassed before her death in connection with any demand for dowry. It, therefore, follows that the husband or the relative as the case may be need not be the actual or direct participant in the commission of the offence of death. If they are direct participants in the commission of the offence of death there are already provisions, Sections 302 and 304 in the Penal Code. The court noted that Section 304-B was not intended to extricate husbands from the clutches of 302, I.P.C. if they directly cause death of their wives. The court, further, observed that Section 304-B, I.P.C. and Section 113-B, Evidence Act were brought in to curb the social evil, viz. demand for dowry, the interpretation of the provisions must be in consonance with the modern needs. (49)

In an Allahabad case the question involved was: can a charge under Section 302, I.P.C. co-exist with the charge under Section 304-B I.P.C.? The High Court in recent case of Bhoora Singh v. State (50), observed that the gist of the two offences punishable under Section 302, I.P.C. and Section 304-B, I.P.C. is the extinction of life under unnatural circumstances and there is nothing in the two Sections to either explicitly or impliedly exclude either of the two if one is applicable. For charging an accused under Section 302, I.P.C. the prosecution has, in

50. 1993 Cri. L.J. 2636. (All. HC)
fact, to prove by evidence that the accused by his acts has caused the death of the deceased with the intention of causing death. But for the exception carved out in Section 300, I.P.C. which may amount culpable homicide not amounting to murder, all other instances of culpable homicide would be punishable as murder under Section 302, I.P.C. because it shall come within the definition of murder as delineated under Section 300, I.P.C. It is worth noting that neither the word 'culpable homicide' nor the word 'murder' finds place in Section 304-B, I.P.C. The expression used therein is 'the death of a woman deceased. In view of the compelling nature of the presumption drawable under Section 113-B of the Indian Evidence Act, the applicability of the said Section 113-B is always to be confined to the cases covered by Section 304-B, I.P.C.

The Court further observed that, however, in practice how would the ingredients of the two Sections 302 and 304-B, I.P.C. be proved simultaneously? An offence under Section 302 I.P.C. may be proved only by two methods of evidence i.e., direct evidence and circumstantial evidence... A genuine difficulty may arise where the prosecution leads direct evidence or circumstantial evidence to prove the charge under Section 302, I.P.C. and for some reason the court may doubt that evidence. Consequent upon such a doubt about the evidence, it may not be possible to record a conviction under Section 302, I.P.C.
In number of cases the courts have interpreted Section 306 and Section 498-A, I.P.C. in the strict sense and have insisted on definite evidence linking the accused to the offence charged.

Thus, in case of *Ashok Kumar v. The State of Punjab*, the Punjab and Haryana High Court set aside the conviction under Section 306, I.P.C. and acquitted the husband on the ground that presumption as to abetment to suicide is available only if husband is proved guilty of cruelty towards wife.

In another case, the Madhya Pradesh High Court set aside the conviction under Section 306, I.P.C. and acquitted the mother-in-law. The court held that since the deceased ended her life by self immolation when none of the in-laws were present in the house at the time of suicide. The Court observed, "suicide in all probability was committed out of frustration and pessimism due to her own sensitiveness. The case of harassment and humiliation was not proved".

The Bombay High Court in case of *Smt. Sarla Prabhakar Wagmare v. State of Maharashtra*, under Section 498-A, I.P.C. observed that it is not every harassment or every type of cruelty that could attract

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51. 1987 *Cri. L.J.* 1412. (P & H. HC)


53. 1990 *Cri. L.J.* 407. (Bom. HC)
Section 498-A. It must be established that beating and harassment was with a view to force the wife to commit suicide or to fulfil illegal demands of husband or in-laws. The court held that beating and harassment with a view to force the wife to commit suicide or to fulfil the illegal demands of the husband was not established.

In another case, the deceased wife was found burnt while the husband was present in the house. A large amount of dowry was paid at the time of marriage and there were several subsequent demands for dowry. When wife had delivered a daughter the family did not accept the child and she was left behind in her parents house. In spite of all this, the Bombay High Court set aside the order of conviction of the Sessions Court acquitting the husband of the charge of murder and harassment under Section 498-A. The Court held that the offence of murder could not be proved beyond reasonable doubt and further that occasional cruelty and harassment cannot be construed as cruelty under Section 498-A, I.P.C..(54)

(C) Indian Evidence Act

The Indian Evidence Act provides for detailed rules which are followed by the courts in the determination of an issue. In matters involving criminal acts the prosecution is under a heavy responsibility to prove the

case beyond reasonable doubt. In cases of bride-burning/dowry-deaths, harassment and cruelty, dowry related murders and suicide, the prosecution is under duty to produce evidence in the proof of these crimes. The burden is heavy. If the prosecution fails to prove any of the ingredient of the offence, he loses the case. The law as it stood before 1983 was least helpful to the prosecution. As noted earlier two amendments in the law made in 1983 and 1986 created presumptions as regards harassment and dowry death. In spite of such presumptions the burden on the prosecution remains onerous.

As the death or suicide takes place generally in the marital home only the family members have privy or knowledge to the gruesome events. Prosecution hardly gets direct evidence of the bride-burning cases. Many a time the case is based on circumstantial evidence like letters written by the brides to her parents, evidence of neighbours and the dying declarations, if any made by the victims. It is the last mentioned piece of evidence that has been generally relied upon by the prosecution in support of a charge of bride-burning. It would be necessary to discuss this kind of evidence in detail taking into account the statutory provision and its judicial interpretation.

1. **Dying Declaration**

Dying declaration is covered by Section 32 of the
Indian Evidence Act. It runs as follows:

"When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question: such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question."

This Section comes into play when the person whose statement is sought to be proved has died, or cannot be found, or has become incapable of giving evidence or whose attendance can not be procured without delay or expense which under the circumstances of the case appears to the court to be unreasonable.

2. Judicial Interpretation of S. 32 (1)

The Supreme Court was confronted with a situation when there were as many as four dying declarations made after one another. The Court had to decide which one should be relied upon. In this case a young bride dying of third degree burns allegedly made four dying declarations accusing her mother-in-law and father-in-law of burning her. The deceased in her dying declaration stated that her mother-in-law sprinkled kerosene oil from
behind and burnt her. In the next statement she is alleged to have stated that her clothes got burnt catching fire from the above, thereby indicating that it was an accident. In the third statement she was rather vague as to who exactly poured kerosene oil and set fire on her and she only stated that it could be possible that her mother-in-law and father-in-law might have set the fire after pouring Kerosene oil. In the fourth statement she stated that she turned to the store and she heard her mother-in-law and father-in-law talking behind her and suddenly they poured kerosene oil and they set her on fire. Their Lordships of the Supreme Court held that under these circumstances, the irresistible conclusion is that the dying declarations are inconsistent and in such a situation it is not possible to pick out one statement where in the accused is implicated and base the conviction on the sole basis of such a dying declaration.(55)

In an earlier decision Khushal Rao v. State of Bombay,(56) the Supreme Court had expressed its opinion on a similar situation. The court observed that a dying declaration should satisfy all the necessary tests and one such important test is that if there are more than one dying declaration they should be consistent particularly in material particulars. It is well settled that dying declaration can form the sole basis of conviction provided that it is free from infirmities and satisfies various

tests. The Court, further, observed that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence; that a dying declaration which has been recorded by a competent magistrate in the proper manner, that is to say, in the form of questions and answers, and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character, and that in order to test the reliability of a dying declaration, the court has to keep in view, the circumstances like opportunity of the dying man for observation, for example whether there was sufficient light if the crime was committed at night; whether the capacity of the man to remember the facts stated, had not been impaired at the time he was making the statement, by circumstances beyond his control, that the statement has been consistent throughout if he had several opportunities of making a dying declaration apart from the official record of it; and that the statement had been made at the earliest opportunity and was not the result of tutoring by interested parties.

The ratio laid down in this case has been referred to in a number of subsequent cases with approval. In case of *Munnu Raja v. State of M.P.*, (57)

57. A.I.R. 1976 SC 2199. observed that there is neither
the Supreme Court rule of law nor of prudence that dying declaration cannot be acted upon without corroboration. In *Ramavati Devi v. State of Bihar*,\(^{(58)}\) the Supreme Court pointed out that if the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. In *Rama Chandra Reddy v. Public Prosecutor*,\(^{(59)}\) the court observed that this court has to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had opportunity to observe and identify the assailants and was in a fit state to make the declaration. In case of *Rasheed Beg v. State of Madhya Pradesh*,\(^{(60)}\) the Court observed that where dying declaration is suspicious it should not be acted upon without corroborative evidence.

Relied on the case of Khushal Rao, the Supreme Court in case of *Thurukanni Pompiiah v. State of Mysore*,\(^{(61)}\) observed that the reliability of the declaration should be subjected to a close scrutiny, considering that it was made in the absence of the accused who had no opportunity to test its veracity by cross examination. If the court finds that the declaration is not wholly reliable and a


\(^{(60)}\) A.I.R. 1974 SC 332.

\(^{(61)}\) A.I.R. 1965 SC 939.
material and integral portion of the deceased's version of the entire occurrence is untrue, the court may, in all the circumstances of the case, consider it unsafe to convict the accused on the basis of the declaration alone without further corroboration.

In case of Smt. Kamala v. State of Punjab, the Supreme Court observed that it is also settled in all these cases that the statement should be consistent throughout if the deceased had severed opportunities of making such dying declarations, that is to say, if there are more than one dying declaration they should be consistent.

Their Lordships of the Supreme Court in case of Mohan Lal v. State of Maharashtra held that, "where there are more than one statement in the nature of dying declaration, one first in point of time must be preferred".

Sometimes, the dying declaration of a bride before the parents come is to exculpate her husband; but when the parents come on the scene, she feels more confident and gives a version, which involves them. The Courts are generally beset with the problem of assessing this conflicting evidence and in a quite few cases, having regard to the presumption of innocence, till it is

displaced by acceptable evidence which brings home beyond reasonable doubt the offence to the accused, an acquittal follows.

In case of State (Delhi Administration) v. Laxman Kumar, the Supreme Court pointed out that in the instant case the dying declaration of burnt bride was recorded not by a Magistrate nor by a doctor but by the investigating officer without explaining the non-availability of the Magistrate and the doctor. It was not signed by the deponent although literate and not proved to be incapacitated to sign by the burnt injuries. The time of the statement was also not indicated in the document. At the time the declaration was recorded none of her relations were present. The fitness of the deponent to make a declaration was also doubtful. The dying declaration was also not recorded in the form of questions and answers. The court held that the declaration was not acceptable.

In another case two dying declarations were produced of which one was recorded by the doctor to whom the deceased was taken for treatment stating that she was burnt by her mother-in-law and husband and second one, carrying thumb impression of deceased written by a person and attested by sarpanch supporting that deceased committed suicide. The court held that second dying declaration was not proved by competent witness and it

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64. A.I.R. 1986 SC 250.
cannot be relied upon. (65).

3. Circumstantial Evidence

There are a number of cases where the husband and wife are alone in the home. In other cases there are other members of the family, such as the mother-in-law, the father-in-law, brother-in-law, sister-in-law and other near relatives. It is difficult in such case to say with any certainty or beyond all reasonable doubt, who, among them or whether all of them were guilty of burning her and causing her death. To establish a case against the husband where he alone is charged or where he faces trial along with other relatives the prosecution generally relies on circumstantial evidence. The courts have insisted that the circumstantial evidence against the accused should be definite, conclusive in nature and must be consistent with the guilt.

The Supreme Court in case of Prabhudayal v. State of Maharashtra, (66) observed that there is a series of decisions of this court propounding the cardinal principles to be followed in cases in which the evidence is of circumstantial nature. It is not necessary to recapitulate all those decisions except stating the essential ingredients as noticed by Pandian, J. in case of the State of Uttar Pradesh v. Dr. Ravindra Prakash


to prove guilt of an accused person by circumstantial evidence. They are:

"(1) the circumstances from which the conclusion is drawn should be fully proved;
(2) the circumstances should be conclusive in nature;
(3) all the facts so established should be consistent only with the hypothesis of guilt and inconsistent with innocence;
(4) the circumstances should, to a moral certainty, exclude the possibility of guilt of any person other than the accused."

In another case of Sharad Birdichand v. State of Maharashtra, the High Court of Bombay, while convicting the accused gave 17 circumstances which according to it, proved the prosecution case that the appellant-husband had administered the poison. One of the circumstances is that the deceased was 4 to 6 weeks pregnant and other circumstances were relating to the conduct of the accused, his motive to kill and of giving false information as well as making haste to dispose of the body etc. In a chain of circumstantial evidence these false explanations were used as additional links. The Supreme Court after a lengthy examination of the different probabilities arising on the incriminating and other circumstances, gave the benefit of doubt and acquitted the accused.

The case of *Kundula Bala Subrahmanyan v. State of Andhra Pradesh*, (69) involved appreciation of evidence of neighbours' dying declaration as well motive behind the crime. The Supreme Court observed that in the instant case, "the prosecution has successfully established that both the accused, husband and mother-in-law of deceased had strong and compelling motive to commit the crime because of deceased parents not agreeing to get the land registered in the name of her husband and their insistence to have the land registered in the name of their own daughter instead. The brother of the deceased was wholly a truthful and reliable witness. The evidence of the neighbour was worthy of credence and trustworthy. Both the dying declarations i.e. one made by the deceased to her neighbours and the other to her brother, were consistent with each other and have been made by the deceased voluntarily and in the natural course of events. The medical evidence, fully corroborates the prosecution case, lends support to the dying declarations and more particularly the manner in which the deceased had been set on fire. The prosecution, has successfully established that the conduct of both the accused both at the time of the occurrence and immediately thereafter was consistent only with the hypothesis of the guilt of the accused and inconsistent with their innocence."

The Supreme Court in *State of U.P. v. Ashok Kumar*

69. 1993 Cri. L.J. 1635.
Srivastava, \(^{(70)}\) observed that while appreciating circumstantial evidence the court must adopt a very cautious approach and should record a conviction only if all the links in the chain are complete pointing to the guilt of the accused and every hypothesis of innocence is capable of being negatived on evidence. Great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. The circumstance relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

In another case of Mulakh Raj v. Satish Kumar \(^{(71)}\), the Supreme Court observed that in cases of circumstantial evidence motive bears important significance. The failure to prove motive is not fatal as a matter of law. Proof of motive is never an indispensable for conviction. When facts are clear it is immaterial that no motive has been proved. Therefore, absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor militates against the prosecution case.

4. Presumptions in Dowry Related Offences

Having regard to the difficulty in establishing the cause of death—whether the accused's conduct and treatment

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induced her to commit suicide, or whether the husband and/or his relatives caused her death, the legislature has now stepped in some way to meet the growing incidence of violence against women—particularly in cases of bride-burning. Sections 113-A and 113-B have been added to the Evidence Act by the Criminal Law (Second Amendment) Act, 1983 and the Dowry Prohibition (Amendment) Act, 1986, respectively.

Under the Criminal Law (Second Amendment) Act, 1983, after Section 113, a new Section 113-A presumption as to abetment of suicide by a married woman has been inserted in the Indian Evidence Act, 1872. That Section lays down that:

"When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband."

Explanation - For the purposes of this Section, "cruelty" shall have the same meaning as in Section 498-A of the Indian Penal Code.
The Supreme Court in case of Gurbachan Singh v. Satpal Singh (72), has held that a presumption under Section 113-A of the Evidence Act would be attracted and applied relating to a case where the accused was charged under Section 306, I.P.C.. A question had arisen as to whether the presumption under Section 113-A of the Indian Evidence Act could be raised in the said case or not because while that Section was added by Act of 46 of 1983, the death of the deceased in that case, Ravindra Kaur, had happened prior to the enactment of the said Section. It has been held that the provisions of the said Section do not create any new offence and as such it does not create any substantial right but it is a matter merely of procedure and as such it is retrospective and shall apply to that case.

The Dowry Prohibition (Amendment) Act, 1986, also amended the Indian Evidence Act, 1872, by inserting a new Section 113-B Presumption as to dowry death. That Section worded thus:

"When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death". (73)

73. See Supra f.n. 45.
Explanation: For the purposes of this Section, "dowry death" shall have the same meaning as in Section 304-B of the Indian Penal Code.

These provisions were enacted with a view that they would go a long way in solving the problem of battered wives or of dowry victims or cruelty to married woman. But these provisions have failed to achieve its objectives.

In spite of these provisions, the young married women are being tortured, harassed and even burnt to death or pushed to commit suicide on the alter of dowry. The culprits go scot free due to the lack of evidence.

5. Heavy Burden of Proof

Many a time culprits in dowry offences including bride-burning escape punishment because of non-availability of evidence beyond reasonable doubt. In *Lichhamadevi v. State of Rajasthan*\(^{74}\), dowry death case, the trial court acquitted the accused mother-in-law as it considered the evidence before it not sufficient for conviction. The High Court, on the other hand, found the evidence sufficient to convict the accused. The Supreme Court agreed with the appreciation of the evidence by the High Court. The doctor who treated the young daughter-in-law clearly deposed that the latter told him categorically that it was the mother-in-law who poured kerosene on her.

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\(^{74}\) A.I.R. 1988 SC 1785.
The trial court said that since it did not fall in the category of dying declaration it was not sufficient to convict the accused, despite the fact that there was corroborative evidence. The Supreme Court said that Dr. Goel who received pushpa (wife) and admitted her in the emergency ward had testified that neighbours brought Pushpa and no relative accompanied her. He had stated that pushpa was in a serious condition. He has deposed that upon his questioning, pushpa told him that her mother-in-law had burnt her. It was true that Dr. Goel had not recorded this statement in the medical register but that was no ground to disbelieve him. Dr. Goel was a disinterested person. The High Court had accepted his version and there was no reason to reject it. Dr. Goel himself had treated the victim. Therefore, there was no question of finding out from the doctor whether Pushpa was in a position to give her statement or not. Moreover, the statement before the doctor was not recorded as a dying declaration. It was a communication by the patient to the doctor who treated her. He was a Government Doctor on duty in the hospital at that time. Nothing had been elicited from his cross-examination that he was interested in or enemically disposed towards the mother-in-law.

There are several loopholes in the law of evidence. The discretion given to the judges regarding the admissibility of the evidence is so much that no uniform rule can be applied in practice. That is why there are a
number of cases even with strong evidence ending in acquittal and also the judgment of one court being revised by another court.

(D) The Code of Criminal Procedure

Despite the media focus on bride-burning, the police approach on being informed of an unnatural death is to suspect nothing and straightway proceed on the assumption of suicide, without even investigating, if there could have been abetment to suicide\(^{(75)}\). The police officials have themselves said\(^{(76)}\), that only a foolish policemen will be at pains to register every case and endorse it as a crime, because if the volume of crime cases registered is very high, he will be the first to be transferred from his police station. Neither the local police nor the government stand to pain by registering a high crime rate\(^{(77)}\).

If bride-burnings are a genuine they need an intelligent and concerned response from the police, not a "I want to save my skin", response\(^{(78)}\). According to newspaper report\(^{(79)}\) when an accident is reported the

\(^{75}\) Balasubrahmanyam, Vimal, "Dowry-deaths and Suicide Theories", Mainstream, June 9, 1984, p. 27.

\(^{76}\) Anklesaria, Shahnaz, "Favourite Victims of Home Fires", The statesman, (New Delhi), February 27, 1984, p. 3.

\(^{77}\) Ibid.

\(^{78}\) Ninan, Sevanti and Suri, Sanjay, "Behind the Acquittals - Police, Complaints Playing Safe", Indian Express, April 7, 1984, p. 3.

\(^{79}\) Anklesaria, Shahnaz, op. cit.
police do not feel the need to look into the domestic situation. Reading the police reports it seems that there were no domestic problems in the households where the accidents were reported. The victim’s history and background are not always recorded. When information of a post-mortem is given, no details of the results are mentioned. So there is no way of knowing what was found.

Section 174 of the Code of Criminal Procedure contains a provision that when a police officer receives information that a person has committed suicide, or has been killed by another or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation to the nearest Executive Magistrate empowered to hold inquests.

The Criminal Law (Second Amendment) Act, 1983, has amended the Code of Criminal Procedure, 1973, by inserting a new sub-Section (3) to Section 174 of the Code. The new Sub-Section empowers the police as well as the Magistrate to hold such an inquiry when a woman dies while living with her husband and her in-laws or other relations of the husband during the first seven years of her marriage. That sub-Section lays down the following: "When - (i) the case involves suicide by a woman within seven years of her marriage; or (ii) the case relates to the death of a woman within
seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient to do so".

Ordinarily, a death of a person in police custody raises a suspicion of torture by police. Under the new provision a similar suspicion arises when a married woman dies while living with her husband or in-laws during the first seven years of her marriage. This is a warning to the husband and in-laws that the newly wedded wives coming to live with them for the first time is a sacred trust. If they violate the confidence reposed in them by the parents of the brides then their conduct would be judged by the same standard as the conduct of the police is judged in respect of person in police custody. In both these cases the person in custody is under the overall power of the custodians and if such a person dies in such custody then a suspicion arises that the custodian must have ill-treated her and this must have led her to commit suicide or the custodian must have murdered her.

In Section 176 of the Code of Criminal Procedure, in
Sub-Section (i), for the words, "when any person dies while in the custody of the police", the words, brackets and figures" when any person dies while in the custody of the police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-Section (3) of Section 174 have been substituted.

Further, under the Criminal Law (Second Amendment) Act, 1983, a new Section 198-A, prosecution of offences under Section 498-A of the Indian Penal Code has been inserted in the Code of Criminal Procedure. The new Section lays down that, "No court shall take cognizance of an offence punishable under Section 498-A of the Indian Penal Code except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the court, by any other person related to her by blood, marriage or adoption."
This provision is enacted to ensure that the husband and the in-laws of the married woman are not harassed by a complaint lodged by a person who is having personal grudge against them, and is not concerned with the death of the married woman but motivated by an ulterior purpose.

Section 161 of the Code of Criminal Procedure provides that any police officer making an investigation may examine orally any person supposed to be acquainted
with the facts and circumstances of the case. He may, states the Section, reduce into writing any statement made to him in the course of an examination under this Section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

In spite of all these amendments and so much hue and cry about bride-burnings, how callous sometimes our investigating authorities were brought to clear relief by the Supreme Court's decision in Lichhamadevi v. State of Rajasthan, the mother-in-law was charged to have burnt to death her daughter-in-law. During the course of investigation, she was found to have poured kerosene on her and ignited it. She also admitted that her elder son might have burned the wife to death. Jagannath Shetty, J. said that there are some disturbing features in this case which we must mention before examining the merits of the matter. The investigation in this case did not proceed as it ought to and there appears to be soft pedalling of the whole case. During investigation the appellant herself has stated that her son, Madan, might have burnt pushpa, he is the elder brother of Jagadish. Madan was also seen by the neighbours behind the kitchen and running down the stairs at the time when pushpa was in flames inside. The police, however, did not prosecute him.... This indifferent attitude of the investigating agency should be

Similarly, in Joint Women’s Programme v. State of Rajasthan, the Supreme Court found the investigation made by the police in a dowry death case was totally inadequate. It directed the State of Rajasthan and State of Haryana, two states involved in the investigation, to conduct the investigation by an officer not below the rank of superintendent of police.

**Conclusion**

It, therefore, appears that there are legal provisions no doubt, but how far these provisions safeguard women’s interest? The laws, both substantive and procedural, have failed to facilitate the punishment of the guilty and to create terror in the minds of culprits. Mere enactments and legislations do not always bring the desired change and impact. In fact, implementation of law accounts much importance. Because these enactments and legislations are still a matter in the books of law alone and the ratio of bride-burning, suicide and cruelty to bride is on the increase. The judicial system though at the higher level seems to be alive to this social malady but this progressive attitude is a poor substitute of injustices and harassment which the bereaved members of bride’s family suffer at the lower level of the judiciary.

The casual manner in which cases of bride burning...
are investigated, prosecuted and tried show a lack of concern by various functionaries of the criminal justice system. The husband and in-laws escape punishment on account of many loopholes in our existing criminal justice system. The system needs a complete overhauling. Mere patch work will not suffice.