CHAPTER 8

POLICIES AND ACTS OF BRITISH GOVERNMENT AND POST INDEPENDENT ACTS ON DOWRY

INTRODUCTION

In the present sociological life, dowry practice is considered as an inevitable one. Originally this was adopted as customary manner. Now to fulfill the day to day needs, to make the life easily, the practice of dowry prevails in the society in different manner. Basically this was transacted during the course of marriage. But now a days, only after initiating the dowry system, the marriages are fixed. During the course of the life time, women are victimised. Eventhough women, today are being recognised as important, powerful and making meaningful contributions to the life of the men, but till a few decades back, their conditions were pitiable. The ideologies, institutional practices and norms existing in society contributed much to their humiliation harassment, and exploitation. Some of these behavioural patterns thrives even today inspite of the legislative measures adopted in favour of women in our country after independence, and inspite of spread of education and women's gradual economic independence. Countless women continue to be the victim of violence. To solve such problems and crimes, government passed various laws. The following are the some of the British acts and policies existed in our country.

The policies of the British regime in India were favourable to the women community.
Evidence of the movements of the Brahma Samajam for the welfare of the women, and the leaders who fought for the women welfare and were sentenced after trial by the British Government are examples, in which the British Period the Govt. had shown much interest in women welfare. The leaders Muthalakshmi Reddy, E.V.R.Periyar, Mahatma Gandhi (Annex, A-42) Rajaji and justice Krishna Iyer were fought for the women liberation. Subramania Bharathi wrote many poems for women's liberty. The fact that they had sentenced to jail for women liberation during the British period clearly indicated that the women community were deprived by the society.

3.1 BRITISH ACT

There are a few acts only enforced to the justice of women welfare. They are

1. Summary Jurisdiction (Married Women Act) 1895.
2. Licencing Act 1902.
4. Summary Jurisdiction (separation and maintenance) Act 1925
5. Poor Law Amendment Act 1865.

3.1.1 Summary Jurisdiction (Married Women Act) 1895

Under section 4 of the Summary Jurisdiction Act (Married Women Act) 1895, the husband wilfully neglect to provide reasonable maintenance for the wife or her infant children, whom he was legally liable to maintain was included as one of the five specific grounds, upon which the wife might seek justice's order for the maintenance of herself and her children.
The grounds are (1) Scolding, (2) Beating, (3) Instigation to get marry other person, (4) Keeping away, (5) Returning Home in intoxication.

The other grounds were a summary conviction for an aggravated, assault upon a wife, a conviction upon indictment for an assault upon her where the sentence exceeded £5 fine or two months imprisonment, persistent cruelty towards her and deserving.

3.1.2 Licencing Act 1902

Further grounds were added by the licencing Act 1902 (habitual drunkadness, drug addictions being added in 1925), the summary jurisdiction Act 1925 (insistence on sexual intercourse when suffering from venereal deceases, compelling submission to prostitution and persistent cruelty to wife’s children) and the matrimonial causes Act 1937 (adultery).

3.1.3 The married women (Maintenance in case of diversion Act 1886)

This act enabled a married women to apply for a justice’s order where her husband was willfully neglecting or refusing to maintain her or her and her family, but only if this willful neglect was combined with his discretion. Before 1886 the neglected wife could either avail herself of her right at common law to pledge her husband’s credit for necessaries and she might link a claim for financial provision to a petition in the high court for a decree of restitution of conjugal rights, judicial separation, nullify or dissolution of the marriage.
3.1.4 Poor Law Amendment Act

The remedies are given under sec 33 of the poor law amendment act 1868, which empowered the poor law authorities to obtain justices order on her behalf against the husband where she was in receipt of poor relief through his failure to maintain her.

3.1.5 Summary Jurisdiction (Separation and Maintenance Act 1925)

It removed the qualification completed by the Act of 1895, namely that the neglect to maintain might have caused the wife to leave her husband and live apart from him, and it is now provided that justices order may be obtained even where the wife despite her husband's conduct for reasons of for bearable or strained circumstances, remained under the same roof. Though there is new jurisdiction to make a order it cannot be enforced so long on the wife continues to reside with the husband and by Sec 1(4), of the residence continues for three months after the order is made the order ceased to have effect. On the other hand, continuing co-habitation is a complete ban to any proceeding under the Act and its resumption causes an existing order to lapse.

The new Bill Sec 7(1) would change the present law by allowing an order to be made but not enforced, during co-habitation. Such order to cease to have effect if the co-habitation continued for three months. Thus, mere residence would no longer make the order unenforceable where a high court order the matrimonial causes Act 1950 sec 23 was enforced despite the parties being resident together.
Some of the sections and judgements in some cases reveal that there is no specific law and section passed exclusively on the cruelty of women. The above illustration indicated the family welfare only. Thus the atrocities of crime against women in respect of dowry, committed during various periods in our country, exclusively concentrate on dowry harassment, death.

3.2 POST INDEPENDENT INDIAN GOVERNMENT ACT ON DOWRY

The various Acts and relevant sections pertaining to dowry harassment, death are mentioned below. This would help the society to keep awareness for the security of the life of the women.


3.2.2. Dowry death under section 304(B) Indian Penal Code.

3.2.3. Abetment of suicide under section 306 of Indian Penal Code.

3.2.4. Murder under section 300 and 302 of Indian Penal Code.

3.2.5. Cruelty by husband or relatives of husband under section 498(A) of Indian Penal Code.

3.2.6. Evidence Act, Section 113A, 113B

3.2.7. Criminal Procedure 174 A and 198A (3).

3.2.8. The Dowry Prohibition (Maintenance of list of present to the bride and bridegroom Rules) 1985.
Even though the Act passed in the year 1961, the system of transaction of dowry continued to be practices. And the crimes kept on increasingly. Indian parliament raised a resolution to form a committee under the Head of Thiru.Krishna Sagar to amend certain lacuna found in the Act. The committee recommended after the amendment made and submitted a report before the parliament. It was amended. The Amended Dowry Prohibition Act 1985 came into force, to regulate the dowry menace.

3.2.1 Dowry Prohibition Act 1961

Dowry Prohibition Act 1961 under section of this act defines the meaning of dowry.

Dowry means any property or valuable security given or agreed to be given either directly or indirectly.

(a) by the parents 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 marriage or two any other person.

Section 3 provides penalty for giving dowry or taking dowry. Section for 4 imposes penalty for demanding dowry, section 5 of D.P.A. enumerates for giving or taking dowry as to be void sect 6 of D.P.A. facilitator the dowry to be for the benefit of the wife or her heirs sect 7 of the D.P.A. made the cognizance of offerer. Section 8 explains offences to be cognizable for certain purposes and to be (non-bailable) and non compoundable. Section 8A, tells that where any
person is prosecuted for taking or abetting the taking of any dowry under section 3 (a) the demanding of dowry under section 4 the burden of proving that he had not committed an offence under those section shall be on him. Section 8B authorises the appointment of Dowry Prohibition Officer by the State Government. (Function and power detail - Chapter III) Section 9 of the D.P.A. power to make rules for carrying out the purposes of this Act. Finally section D.P.A. 10 gives the power of the state government to make rules.

3.2.2 Dowry Death Section 304B Indian Penal Code

Under section 304-B, I.P.C., means that 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 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.¹

3.2.3 Abetment of Suicide

Section 306 of IPC enumerates that 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 extent to ten years and shall also be liable to fine.

Public Prosecutor, High Court of A.P. ver. Tora Basava Punnaiah and others, 1990.
3.2.4 Murder

3.2.4.1 Section 300 and 302 of Indian Penal Code

Section 300 of murder explains that except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or

Secondly - If it is done with the intention of causing such bodily injury as the defender knows to be likely to cause the death of the person to whom the harm is caused, or

Thirdly - If it is done with the intention of causing bodily injury to any person and the bodily injury intended to the inflicted is sufficient in the ordinary course of nature to cause death, or

Fourthly - If the person committing the act knows that it is no imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

3.2.4.2 302 IPC Punishment for Murder

Whoever, commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

---

2 Subs. by Act 26 of 1955, Sec. 117 Schedule, for "Transportation for life" w.e.f. 1st January, 1956.
3.2.5  

Section 498A IPC

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 extent 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 to 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.

3.2.6.  

Evidence Act

Section 113A. Presumption as to abetment of suicide by a married women - 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 Sec. 498-A of the Indian Penal Code (45 of 1860).

113-B. Presumption as to dowry death - 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.

Explanation - For the purposes of this section, "dowry death" shall have the same meaning as in Sec., 304-B of the Indian Penal Code 45 of 1860.

3.2.7 Criminal Procedure Code

3.2.7.1 Section 174 and 198A

Section 174. Police to enquire and report on suicide, etc.

When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide. Or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the district or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall
made an investigation and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating is what manner, or by what weapon or instrument if any, such marks appear to have been inflicted.

The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

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 so to do.
He shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrification on the road as would render such examination useless.

The following Magistrates are empowered to hold inquests, namely, any district Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

3.2.7.2 198A. Prosecution of Offences under section 498-A of the Indian Penal Code

No court shall take cognizance of an offence punishable under Section 498-A of the Indian Penal Code (45 of 1860) 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.

3.2.8 The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985

G.S.R. 664 (E), dated 19th August 1985³ - In exercise of the powers conferred by Section 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby make the following rules, namely:

Published in the Gazette of India, Extraordinary, Part II, Section 3(i).
3.2.8.1 Short title and commencement

1. These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.

2. They shall come into force on the 2nd day of October, 1985 being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

3.2.8.2 Rules in accordance with which lists of presents are to be maintained

1. The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.

2. The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bride.

3. Every list of presents referred to in sub-rule (1) or sub rule (2)
   (a) shall be prepared at the time of the marriage or as soon as possible after the marriage;
   (b) shall be in writing;
   (c) shall contain;
      i) a brief description of each present;
      ii) the approximate value of the present;
      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;
   (d) shall be signed by both the bride and the bridegroom.
Explanation 1 - Where the bride is unable to sign, she may affix her thumb impression in lieu of her signature after having the list read out to her and obtaining the signature on the list of, the person who has so read out the particulars contained in the list.

Explanation 2 - Where the bridegroom is unable to sign, he may affix his thumb impression in lieu of his signature after having the list read out to him and obtaining the signature on the list, of the person who as so read out the particulars contained in the list.

The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom or any other person or persons present at the time of the marriage.

Various amendments were incorporated in the Dowry Prohibition (Amendment) Act 1986 No.43 of 1986.

In section of the word after the marriage was substituted any time after the marriage. In section 3, the words "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", the words "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" shall be substituted. In the proviso, for the words "six months", the words "five years" shall be substituted. 4-A, Ban on advertisement - If any person - (a) offers though any advertisement in any newspaper, periodical, journal or through any other
media, any share in his property or of any 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), other sections are also amended.

3.2.9 Evaluation

While contacting the respondents on the awareness of the above
sections of law, the response was poor in both the places, i.e. either in rural or
city. They expressed that knowing the laws would not help in any way in their
life. They shouldered the responsibilities to the concerned authorities.

Table 3.1

<table>
<thead>
<tr>
<th>Respondent = 200</th>
<th>Male = 100</th>
<th>Female = 100</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Evaluation on Dowry Act</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>General evaluation</th>
<th>Male respondent</th>
<th>Female respondent</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Dowry cannot be eradicated by enforcing Dowry Act</td>
<td>58</td>
<td>76</td>
<td>134</td>
</tr>
<tr>
<td>2.</td>
<td>Dowry cell tried to compromise the complainant</td>
<td>18</td>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td>3.</td>
<td>It is difficult to enforce in practical life</td>
<td>4</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>4.</td>
<td>It lies only on records</td>
<td>8</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>5.</td>
<td>It is an eyewash</td>
<td>8</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>6.</td>
<td>People do not rely on law</td>
<td>4</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

100 100 200
CASE LAWS 1

SUPREME COURT

3.3.1 BEFORE : K. JAYACHANDRA REDDY AND N.P. SINGH J.J.

STATE OF H.P. - Appellant

Versus

RAJ KUMAR CHOPRA AND ANOTHER - Respondents

With

M.L. CHANDRA - Appellant

Versus

RAJ CHOPRA AND ANOTHER - Respondent

(Criminal Appeal Nos. 615 and 616 of 1984, decided on 19th April 1994)

In the case of death by burning initially registered by under section 302/34 IPC by the police. The accused were pleaded not guilty by supporting the dying declaration recorded by the doctor in the presence of nurse. After hearing the witnesses, the accused were released, by passing strictures to the prosecution, not proving the guilt beyond all reasonable doubt. The orders passed by the high court was upheld in the Supreme Court.
CASE LAWS 2
SUPREME COURT

3.3.2 BEFORE: Dr. A.S. ANAND AND N.P. SINGH JJ.

KUNDULA BALA SUBRAMANYAM - Appellant

Versus

STATE OF ANDHRA PRADESH - Respondents

(Criminal Appeal N. 629 of 1995, decided on 26th March, 1985)

In this case the curse of dowry has claimed yet another victim. In this bride burning case the deceased died due to 90% extensive burning. She made dying declaration which implicated the accused and the manner of disclosure revealed how the deceased was put on fire. At the time of trial the prosecution interalia relied upon the following circumstances with a view to correct the appellant with the crime.

1. Motive
2. Two dying declaration made to the witnesses
3. Medical evidence
4. Absconding of the appellants
5. Conduct of the appellants immediately and after the occurrence.

The decision of the high court convicting the appellants for murder upheld.
CASE LAW 3

SUPREME COURT

3.3.3 BEFORE: K. JAYACHANDRA REDDY AND G.N. RAY, J.J.

KAMLIA - Appellant

Versus

STATE OF PUNJAB - Respondents

(Criminal Appeal No. 69 of 1982, decided on 18th November, 1992)

This is a case alleged to be one of dowry death. The appellant was the mother in law of the deceased. She alongwith her husband was trialed under section read with 34 IPC. The trial court acquitted Govindalal (her husband) and convicted her. She preferred an appeal on the ground of dying declaration given by the deceased contending with mental condition. It was held that by ordering not safe to base the conviction on the sole basis of dying declaration. Appeal was allowed.
The appellant Hem Chand married the deceased Saroj Bala on 24.5.1992. She stayed for two months in the matrimonial home and returned to her parents house and told them that the accused was wanting more dowry in the form of a television and a fridge. Her father gave Rs.6000/- and sent her back to her matrimonial home. The accused again demanding another sum of Rs.25,000/- for purchasing a plot. On 13.11.1984 the accused took his wife and left her in her parents house thereby making them understand that the deceased could get back to the matrimonial whom of Hissar with Rs.25,000/- and not otherwise. The appellant after undergoing one year's course in connection with his service took his wife back. On 20.5.1987 the deceased, however went to service took his wife back. On 20.5.1987 the deceased, however, went to her father and told him that her husband was demanding Rs.25,000/-. She came back to her husband with Rs.15,000/- with a promise that the balance would be remitted by her father soon. On 16.6.1987 at about 11.15 A.M. the deceased died of strangulation that is to say that she died otherwise than in normal circumstances within seven years of her marriage. The father, after coming to know that the dead body of the deceased had been brought to Village Lakhan Majra, reached there. Thereafter he lodged a
complaint with the police that his daughter was murdered by the accused because of dowry. The police registered the crime, held the inquest over the dead body and sent the same for post-mortem. As the dead body was highly decomposed, the Doctors referred the same to the Head of the Department of Forensic Medicine, Medical College, Rohtak Dr. Dalbir Singh, Demonstrator, Department of Forensic Medicine examined the body and found a ligature mark around the neck and on dissection of the ligature mark around the neck he found that ecchymosis were present, trachea was congested and was containing bloody froth. He also found a contusion over the chin. The doctor also found several other contusions on the hands, axilla and other parts of the body. He opined that the death was due to strangulation. After completion of the investigation, the charge-sheet was laid.

The plea of the accused was one of denial and he stated that when he returned from his office in the evening and entered the room, he found the deceased hanging from the hook in the ceiling. He got confused and with the help of the people he took the dead body to his native village.

Eventhough there is no direct evidence is connecting the accused, the prosecution has proved that the deceased died on unnatural death, namely due to strangulation. The accused appellant was a police employee and instead of checking the crime. He himself indulged there and participated in it and that bride-killing cases are on the increase and therefore serious view has to be taken. As mentioned above section 304-B, only raises presumption and lays down that minimum sentence should be seven years but it may extend to imprisonment for life. Therefore awarding extreme punishment of imprisonment for life should be in some cases and not in every cases. Hence the court had in the view that a sentence at 10 years rigorous imprisonment would be the ends of justice.
CASE LAWS - 5
SUPREME COURT
3.3.5 BEFORE: K. JAYACHANDRA REDDY AND G.J. RAY, J.J.

STATE OF WEST BENGAL - Appellant

Versus

SRI ORIPAL JAISWAL AND ANOTHER - Respondents

(Criminal Appeal No. 734 of 1991, decided on 23rd September, 1993)

The prosecution case, in short that, Usha Jaiswal had committed suicide by hanging on April 19, 1986 in the house of her husband and the in-laws within a year from the date of marriage which was solemnised between Usha Jaiswal and the accused 1, Orilal Jaiswal on May 31, 1985. It is the case of the prosecution that it was a negotiated marriage and according to the demand of the accused persons and other members of the family of in-laws, sufficient dowry including colour T.V., motor cycle, gold ornaments, etc. had been given at the time of marriage. The prosecution case is that the deceased, Usha Jaiswal, who was only 20 years old had been treated cruelly and had been tortured both mentally and physically by the accused. It has been alleged that within a few days after the marriage, the father-in-law of accused 2 had died and accused 2 had treated the deceased cruelly by telling her that she was a woman of evil luck (alakshmi) and because of her evil luck, the father-in-law had died shortly after the marriage. It has also been alleged that after the marriage, the deceased, Usha Jaiswal, had conceived but there had been an abortion after being admitted in the hospital. Accused 2, the mother-in-law of Usha Jaiswal caused severe mental pain by telling her in the hospital itself that she was a woman of evil luck and that she has swallowed her baby and she should commit suicide. It has also been alleged that accused 1, the
husband of the deceased often used to come home drunk and physically assault the deceased. Both the husband and his mother had also caused severe mental torture to the deceased by telling that she had brought bridal presents of sub-standard quality and such articles should be taken back and dowry gifts of good quality should be brought. It has been alleged by the prosecution that as a result of such physical and mental torture by the accused persons, the deceased became unhappy and on several occasions when she had come to her father's house, she complained that she had been maltreated and tortured both physically and mentally with cruelty by the husband and mother-in-law in the manner aforesaid. It has also been alleged that even on the day when the deceased had committed suicide, namely, on April 19, 1986, accused 1, Original Jaiswal, came to the parental house of the deceased at about 10.00 a.m. and informed the mother of the deceased that his wife and mother had been quarrelling and she should go to his house for settlement but the mother of the deceased then informed accused I that she would send her son the next day to the house of the accused persons but shortly thereafter, a brother of the deceased came to the house and informed to other brother and the mother that something had happened to his elder sister, namely, the deceased and she had been taken to the hospital. The elder brother and thereafter parents and other relations of the deceased rushed to the hospital when they were informed that the deceased Usha Jaiswal had committed suicide.

Even the both of the deceased make complaint in the police station that his sister had been murdered, but his statement was not treated as murder. The case was made with post-mortem report as a case of hanging. According to this doctor conducting the post-mortem formed opinion that a case of hanging. He observed some abrasion on check, and other parts of the body were antemortem in nature.
When cases examined at the court, the doctor, however, stated that such injuries could also caused of the deceased had dashed against a hard substance and the injury on the neck could be caused by the section of the nylon rope. The following points are considered against the prosecution the benefit of the doubt.

1. Delay in lodging the FIR.
2. There is no dying declaration suicidal note.
3. There is no letter during the subsistence of marriage.
4. There is no letter addressed to the mother who used to live outside Calcutta, most of the time.
5. There is no complaint either by the father of the victim.
6. There is no evidence regarding the injuries received by the deceased of the maltreatment.
7. No specific duties her mentioned about the demand of the dowry (or) maltreatment.
8. The neighbour (or) tenants have not been examined.

Under these circumstances, the offence under section 498A IPC was already established against the both the accused. It was allowed the appeal in part by setting aside the order of the acquired under section U/S 498A. Both the accused were convicted under section 498, but considering the age of the mother in law. The sentence was reduced to 2 years. There are materials on record to indicate that both the accused were guilty under section 306 IPC (Abetment to commit suicide), it was inclined to give them benefit of doubt. As for this section, they are acquitted. The impugned judgement of the High Court stands allowed to the above extent.
CASE LAWS 6

ANDHRA PRADESH HIGH COURT

3.3.6 BEFORE : IMMANENT PANDURANGA RAO, J.

P. KRISHNA MURTHY H.P. - Appellant

Versus

STATE OF ANDHRA PRADESH - Respondents

(Criminal Appeal No. 157 of 1990, decided on 30th September 1993)

The husband and mother in law is one R. Renuka the deceased have been trialed for the offences punishable under section 306 IPC and 498-A IPC on the allegation that on 15.5.1984 in the morning at Hari Nagar, Hyderabad they have abetted the decease to commit suicide as a result of which she jumped into the water of the filter hose at Nagajunasagar and put an end to her life. Dowry was the cause of the incidence, Post-mortem report was forwarded, as death due to asphyxia, due to drowning. The appeal was dismissed and sentence was confirmed awarded by the lower court.
CASE LAW 7
MADRAS HIGH COURT
3.3.7 BEFORE : K.M. NATARAJAN. J.

S. ABBOY NAIDU - Petitioner

Versus

R. SUNDARARAJAN AND OTHERS - Respondents

(Criminal Appeal No. 613 of 1987, decided on 13th November 1992)

Incidence occurred on : 30.11.1985
Married on : 2.6.1982
Lower court trial on : 2.3.1986

Getting money back from the bridegroom’s house is the intention found in the High Court. Initially this case was registered under section 174 Cr.P.C. as a case of self immolation. But on complaint, advise of the higher authorities, the case was altered to 498(A) IPC. The case had ended that the prosecution had not proved the guilt of the accused and acquitted him by the lower court. The High Court also dismissed the appeal. The order of the acquitted passed by the lower court confirmed.
CASE LAWS 8

PUNJAB AND HARYANA HIGH COURT

3.3.8 BEFORE : S.D. BAJAJ. J.

SHRI KRISHNAN KUMAR

Versus

STATE OF HARYANA

(Criminal Appeal No. 585-SB of 1985 decided on 11.3.91)

It is a case of self-immolation by the deceased for torturing her for dowry by the accused. Case was trialed under section 498-A and 306 IPC. The High Court uphold the decision of sentencing by the lower court.
CASE LAWS 9

BOMBAY HIGH COURT

3.3.9 BEFORE: S.S. DAVID AND M.F. SALDANHA JJ.

SIDRAM MARAIN BATANAE - Appellant

Versus

THE STATE OF MAHARASTRA - Respondents

(Criminal Appeal No. 685 of 1988 decided 10th & 13th January 1993

Incidence occurred on: 8.12.1987

This was a case of set on fire the deceased by the husband by pouring kerosene for dowry. The section of 304B and 498A had not attracted as registered by the police. But section 302 IPC, he was sentenced to conviction as advised by the High Court.

Death was confirmed by the doctor by quoting septicaemia due to 70% burn. The body was alive over 3 days of time after incidence, i.e., death occurred on 4.12.1987.
CASE LAWS 10

DELHI HIGH COURT

3.3.10

BEFORE : SATPAL. J.

DEVINDER - Petition

Versus

STATE OF DELHI - Respondents

(Criminal Appeal No. 3412 of 1992 decided on 3rd February 1993)


It is case of bail petition moved before the High Court. But the High Court dismissed by bail by referring the case law Cr.L.J. 269, 1983, Cr.L.J. 639, 1991 on the ground that, case is not fit to grant bail, when complaint was yet to be examined before the trial court.
In this case, the accused was awarded under section 302 IPC hanging by the neck till death by the additional section court. On appeal it was set aside and he was penalised under section 498A of the I.P.C. Even though the high court support the special reasons given by the additional sessions court could not bring this case within the orbit of those rarest of rare case, as the history of the case found very cruelty in nature. In this case the husband had put kerosene oil over his wife and set her ablaze, where she was praying that her life shall be saved by catching hold of both legs of accused, he showed no sympathy, such a way he arranged that any persons from outside should not enter to save her.
CASE LAWS 12
ORISSA HIGH COURT

3.3.12 BEFORE: D.P. MOHAPATRA, J.

PRAMILA PATNAIK & ORS - Appellant

Versus

STATE OF ORISSA - Respondents

(Criminal Appeal No.239 of 1990, decided on 4th November 1991)

Incidence occurred on: 31.8.1988

The deceased Subasini had married Prabodh on 7.5.1987. Her parents are residents of village Talapada under Dhamnagar Police Station in the district of Balasore. Prabody's parents reside in village Balarampur under Dharmasala Police Station in the district of Cuttack. The incident giving rise to the criminal case took place on 3.8.1988 at about evening time when Subasini is alleged to have committed suicide by setting fire to herself in her father-in-law's house on the ground of dowry harassment. In this case the documentary evidence produced by the prosecution failed to prove the charge framed against the appellants beyond reasonable doubt. In the result, the appeal was allowed. The conviction and sentence passed against the appellants under section 304B/498A/306 IPC are set aside. They are acquitted of the said charges.
CASE LAWS 13

BOMBAY HIGH COURT

3.3.13 BEFORE : A.A. DESAI AND G.D. PATIL, JJ.

STATE OF MAHARASHTRA - Appellant

Versus

PRABHU DAYALA AND OTHERS - Respondents

(Criminal Appeal no.148 of 1989 decided on 16th November, 1992)

In this case deceased died of 100% burn injury and she was consistently accused and harassed as bad character for want of dowry. The contention of logic determination of crying while burn was not accepted by the court, and court set aside the order of the lower court and convicted 498A had with 34 of the IPC.
CASE LAWS 14

GUJARATH HIGH COURT

3.3.14

BEFORE : K.J. VAIDYA. J.

MADHUBEHN PRAVINBHAI PATEL - Petitioner

Versus

STATE OF GUJARAT - Respondents

(Special Criminal Application No.1598 of 1991 decided on 19th December 1991)

Date of incidence : 1.10.1991

In this case the petitioner - Madhubehn Pravinbhai Patel, the bereaved elder sister of the deceased Pravina, who allegedly came to be murdered by her husband Bhavesh and three other inmates of the house on account of the dowry demand not satisfied by her, has by this petition under Art. 226 of the Constitution on India, moved this Court, inter alia praying for an immediate taking over of the investigation of C.R.No.446/91 from the hands of Kagdapith Police Station, Ahmedabad, and to hand over the same to the Central Bureau of Investigation, or any other independent investigating agency, in substance alleging that right from the inception, for the reasons unknown, the investigation in the matter is being carried on illegally and dishonestly and accordingly if the same was permitted to be continued on the same pattern and in the hands of the same investigating agency, serious miscarriage of justice was bound to result.
On hearing the file, the petition was allowed and ordered to hand over the case to CBI and directed to conduct the investigating as expeditiously as possible keeping in mind the consequence of covering the statutory period of filling the charge sheets.

3.4 EVALUATION

The following points are revealed while evaluating, the various sections of the British Laws, Post Independence Act, and case laws trialed in the court.

1. During the British regime, there was much attention focussed on dowry menace.

2. Dowry problem was initiated in the 19th century.

3. By going through the various views on leaders on women's liberation, women's right, the problem of dowry harassment was found in their period.

4. After independence, our constitution has provided separate legal measures for the protection of woman's rights from the dowry evil.

5. By going through the various case laws trialed in Supreme Court and High Court in various states, the problem of dowry existed in every place of the country.

6. Bride burning was the highest case recorded by the investigating agency.
7. Expert’s opinion is required in deciding the case.

8. By fixing the guilty of the case, the court acted accordingly in awarding the punishment eventhough the case has been registered in a different manner.

9. Time factor in conducting the trial from the date of commission of crime was analysed and reported (Table).

10. The field survey has not materialised while approaching the respondents pertaining to the awareness of the Dowry Act and Rules.

11. Some people criticise that the fine amount mentioned in the dowry Amendment (1985) Rules as Rs. 10,000, must be amended. They pointed out that the rent for the marriage hall in city amounted Rs.60,000/- per day even 1 lakh per day in some marriage halls.

12. Some peoples were of the opinion that those acts were meant for poor people and not to middle classes or higher income groups.

13. The researcher has included the various reports published in the News paper’s regarding dowry death, new amendment to marriage act encouraging the provision of financial assistance to the affected women even during the trial period, the Supreme Court denunciation on the topic of dowry and various verdicts awarded by the court etc. are shown in the annexure.
### Table 3.2

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Place State</th>
<th>Year of Marriage</th>
<th>Year of Death</th>
<th>Year of F.P</th>
<th>Year of Judgement</th>
<th>Time Taken in Years</th>
<th>Evaluation Case Nature Points Examined</th>
</tr>
</thead>
</table>

### HIGH COURT

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Court State</th>
<th>Year of Marriage</th>
<th>Year of Death</th>
<th>Year of F.P</th>
<th>Year of Judgement</th>
<th>Time Taken in Years</th>
<th>Evaluation Case Nature Points Examined</th>
</tr>
</thead>
</table>

*****

### REFERENCES


2. All ER-1947, All ER-1948, All ER-1956